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# TRANSCRIPT OF RECORD

## Supreme Court of the United States

OCTOBER TERM, 1935

## No. 674

THE ASIATIC PETROLEUM COMPANY (PHILIPPINE ISLANDS), LIMITED, PETITIONER,

*vs.*

THE INSULAR COLLECTOR OF CUSTOMS

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF THE PHILIPPINE ISLANDS

PETITION FOR CERTIORARI FILED JANUARY 2, 1936.

CERTIORARI GRANTED FEBRUARY 3, 1936.

# SUPREME COURT OF THE UNITED STATES

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JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., FEBRUARY 11, 1936.

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# United States of America
## Philippine Islands

## In the Supreme Court of the Philippine Islands

THE ASIATIC PETROLEUM COMPANY (PHILIPPINE ISLANDS), LIMITED,
*Petitioner,*

vs.

THE INSULAR COLLECTOR OF CUSTOMS,
*Respondent.*

Court of First Instance of Manila
Civil Case No. 45200
Supreme Court
G. R. No. 41680.

APPELLATE JURISDICTION

BE IT REMEMBERED THAT IN THE ABOVE-ENTITLED CASE AND ON THE RESPECTIVE DATES HEREINAFTER SET FORTH, THERE WERE HAD IN THE COURT OF FIRST INSTANCE OF MANILA AND IN THE SUPREME COURT OF THE PHILIPPINE ISLANDS THE FOLLOWING PROCEEDINGS:

### I. PROCEEDINGS IN THE COURT OF FIRST INSTANGE OF MANILA

On September 25, 1933, the petitioner filed the following petition for writ of mandamus:

(CAPTION AND TITLE OMITTED)

PETITION FOR WRIT OF MANDAMUS

Comes now the petitioner, by its undersigned attorneys, and to this Honorable Court respectfully states:

I

That the petitioner is a corporation duly organized and existing under the laws of the Philippine Islands, and engaged therein in the business of importing and selling petroleum products; that respondent is the duly qualified and acting Insular Collector of Customs of the Philippine Islands;

II

That on or about the 30th day of June, 1932, petitioner imported into the Philippine Islands, on board the steamship "ALETTA", fuel oil and paid in full the customs duties due thereon; that petitioner sold and delivered 148.27 metric tons of said fuel oil to the Roosevelt Steamship Agency, Inc., the duly licensed local agents of the steamship "SAPAROEA", a vessel engaged in trade between the Philippine Islands and foreign countries, with the understanding that customs drawbacks allowed on such oil were to be secured for the account of petitioner; that said fuel oil was used for the purpose of propelling the said vessel while engaged in trade between the Philippine Islands and foreign countries; that the said agent filed the proper drawback entries on the said fuel oil, in writing, for

the purpose of obtaining a refund for the account of petitioner, of the import duties collected thereon, less one per cent (1%), in accordance with Section 21 of the Tariff Law of 1909; that respondent admitted these entries for that purpose and ordered that an inspector from his office verify the amount loaded on the said vessels and certify the said amount on the back of the said entries; that on or about the 20th day of September, 1932, the said inspector did verify the amounts of the fuel oil loaded on said vessels and certified the said amount on the back of the said entries; that said drawback entries were opportunely filed with respondent and demand duly made for the refund of the said custom duties less one per cent (1%) thereof, as provided in Section 21 of the Tariff Law of 1909;

III

That on or about the 15th day of June, 1932, petitioner imported into the Philippine Islands, on board the steamship "JOSEFINA", fuel oil and paid in full the custom duties due thereon; that on or about the first day of October, 1932, petioner delivered 91.55 long tons of said fuel oil on board the steamship "ANGLO-SWEDE", a vessel owned by petitioner and operated by it in trade between the Philippine Islands and foreign countries; that said fuel oil was used for the purpose of propelling the said vessel while engaged in trade between the Philippine Islands and foreign countries; that petitioner filed the proper drawback entries in writing on the

said fuel oil for the purpose of obtaining a refund of the import duties collected thereon, less one per cent (1%), in accordance with Section 21 of the Tariff Law of 1909; that respondent admitted these entries for that purpose and ordered that an inspector from his office verify the amount loaded on the said vessels and certify the said amount on the back of the said entries; that on or about the first day of October, 1932, the said inspector did verify the amounts of the fuel oil loaded on said vessels and certified the said amount on the back of said entries; that said drawback entries were opportunely filed with respondent and demand duly made for the refund of the said customs duties less one per cent thereof, as provided in Section 21 of the Tariff Law of 1909;

IV

That on or about the 30th day of June, 1932, petitioner imported into the Philippine Islands on board the steamship "ALETTA", fuel oil and paid in full the custom duties due thereon; that petitioner sold and delivered 100 tons of said fuel oil to Compañia General de Tabacos de Filipinas, the duly licensed local agents of the steamship "PETER MAERSK", a vessel engaged in trade between the Philippine Islands and foreign countries with the understanding that customs drawbacks allowed on such oil were to be secured for the account of petitioner; that said fuel oil was used for the purpose of propelling the said vessel while engaged in trade

between the Philippine Islands and foreign countries; that the said agent filed the proper drawback entries in writing on the said fuel oil for the purpose of obtaining a refund for the account of petitioner, of the import duties collected thereon less one per cent (1%), in accordance with Section 21 of the Tariff Law of 1909; that respondent admitted these entries for that purpose and ordered that an inspector from his office verify the amount loaded on the said vessels and certify the said amount on the back of the said entries; that on or about the 5th day of November, 1932, the said inspector did verify the amounts of the fuel oil loaded on said vessels and certified the said amount on the back of the said entries; that said drawback entries were opportunely filed with respondent and demand duly made for the refund of the said custom duties less one per cent (1%) thereof, as provided by Section 21 of the Tariff Law of 1909;

V

That on or about the 23rd day of July, 1932, petitioner imported into the Philippine Islands, on board the steamship "ACASTA", fuel oil and paid in full the custom duties due thereon; that petitioner sold and delivered 62.12 tons of said fuel oil to Compañía General de Tabacos de Filipinas, the duly licensed local agents of the steamship "ANNA MAERSK", a vessel engaged in trade between the Philippine Islands and foreign countries, with the understanding that customs drawbacks allowed on

such oil were to be secured for the account of petitioner; that said fuel oil was used for the purpose of propelling the said vessel while engaged in trade between the Philippne Islands and foreign countries; that the said agent filed the proper drawback entries in writing on the said fuel oil for the purpose of obtaining a refund for the account of petitioner, of the import duties collected thereon, less one per cent (1%), in accordance with Section 21 of the Tariff Law of 1909; that respondent admitted these entries for that purpose and ordered that an inspector from his office verify the amount loaded on the said vessels and certify the said amount on the back of the said entries; that on or about the 20th day of January, 1933, the said inspector did verify the amounts of the fuel oil loaded on said vessels and certified the said amount on the back of the said entries; that said drawback entries were opportunely filed with respondent and demand duly made for the refund of the said custom duties less one per cent (1%) thereof, as provided by Section 21 of the Tariff Law of 1909;

VI

That on or about the 28th day of September, 1932, petitioner imported into the Philippine Islands, on board the steamship "PLEIODON", fuel oil and paid in full the customs duties due thereon; that petitioner sold and delivered 52.14 long tons of said fuel oil to the Compañia General de Tabacos de Filipinas, the duly licensed local agents of

the steamship "PETER MAERSK", a vessel engaged in trade between the Philippine Islands and foreign countries, with the understanding that customs drawbacks allowed on such oil were to be secured for the account of petitioner; that said fuel oil was used in trade between the Philipines Islands and foreign countries; that the said agent filed the proper drawback entries in writing on the said fuel oil for the purpose of obtaining a refund for the account of petitioner of the import duties collected thereon, less one per cent (1%), in accordance with Section 21 of the Tariff Law of 1909; that respondent admitted these entries for that purpose and ordered that an inspector from his office verify the amount loaded on the said vessels and certify the said amount on the back of the said entries; that on or about the 26th day of April, 1933, the said inspector did verify the amounts of the fuel oil loaded on said vessels and certified the said amount on the back of the said entries; that said drawback entries were opportunely filed with respondent and demand duly made for the refund of the said custom duties less one per cent (1%) thereof, as provided by Section 21 of the Tariff Law of 1909;

VII

That on or about the 2nd day of May, 1933, petitioner imported into the Philippine Islands, on board the steamship "IRIS", fuel oil and paid in full the custom duties due thereon; that petitioner sold and delivered 141.76 long tons of said fuel oil

to Compañía General de Tabacos de Filipinas, the duly licensed local agents of the steamship "AUSTVARD", a vessel engaged in trade between the Philippine Islands and foreign countries, with the understanding that customs drawbacks allowed on such oil were to be secured for the account of petitioner; that said fuel oil was used for the purpose of propelling the said vessel while engaged in trade between the Philippine Islands and foreign countries; that the said agent filed the proper drawback entries in writing on the said fuel oil for the purpose of obtaining a refund for the account of petitioner, of the import duties collected thereon, less one per cent (1%), in accordance with Section 21 of the Tariff Law of 1909; that respondent admitted these entries for that purpose and ordered that an inspector from his office verify the amount loaded on the said vessels and certify the said amount on the back of the said entries; that on or about the 3rd day of July, 1933, the said inspector did verify the amounts of the fuel oil loaded on said vessels and certified the said amount on the back of the said entries; that said drawback entries were opportunely filed with respondent and demand duly made for the refund of the said custom duties less one per cent (1%) thereof, as provided by Section 21 of the Tariff Law of 1909;

VIII

That on or about the 9th day of September, 1932, petioner imported into the Philippine Islands, on

board the steamship "PLEIODON", fuel oil and paid in full the custom duties due thereon; that petitioner sold and delivered 53.84 long tons of said fuel oil to Compañía General de Tabacos de Filipinas, the duly licensed local agents of the steamship "SOMERVILLE", a vessel engaged in trade between the Philippine Islands and foreign countries, with the understanding that customs drawbacks allowed on such oil were to be secured for the account of petitioner; that said fuel oil was used for the purpose of propelling the said vessels while engaged in trade between the Philippine Islands and foreign countries; that the said agent filed the proper drawback entries in writing on the said fuel oil for the purpose of obtaining a refund for the account of petitioner, of the import duties collected thereon, less one per cent (1%), in accordance with Section 21 of the Tariff Law of 1909; that respondent admitted these entries for that purpose and ordered that an inspector from his office verify the amount loaded on the said vessels and certify the said amount on the back of the said entries; that on or about the 25th day of March, 1933, the said inspector did verify the amounts of the fuel oil loaded on said vessels and certified the said amount on the back of the said entries; that said drawback entries were opportunely filed with respondent and demand duly made for the refund of the said customs duties, less one per cent (1%) thereof, in accordance with the provisions of Section 21, of the Tariff Law of 1909;

IX

That on or about the 28th day of September, 1932, petitioner imported into the Philippine Islands on board the steamship "PLEIODON", fuel oil and paid in full the custom duties due thereon; that petitioner sold and delivered 61 long tons of said fuel oil to Smith, Bell & Co., Ltd., the duly licensed local agents of the steamship "LINDENBANK", a vessel engaged in trade between the Philippine Islands and foreign countries, with the understanding that customs drawbacks allowed on such oil were to be secured for the account of petitioner; that said fuel oil was used for the purpose of propelling the said vessel while engaged in trade between the Philippine Islands and foreign countries; that the said agent filed the proper drawback entries in writing on the said fuel oil for the purpose of obtaining a refund for the account of petitioner of the import duties collected thereon, less one per cent (1%), in accordance with Section 21 of the Tariff Law of 1909; that respondent admitted these entries for that purpose and ordered that an inspector from his office verify the amount loaded on the said vessels and certify the said amount on the back of the said entries; that on or about the 5th day of April, 1933, the said inspector did verify the amounts of the fuel oil loaded on said vessels and certified the said amount on the back of the said entries; that said drawback entries were opportunely filed with respondent and demand duly

made for the refund of the said custom duties less one per cent (1%) thereof, as provided by Section 21 of the Tariff Law of 1909;

X

That on or about the 28th day of September, 1932, petitioner imported into the Philippine Islands on board the steamship 'PLEIODON", fuel oil and paid in full the custom duties due thereon; that petitioner sold and delivered 121.26 long tons of the said fuel oil to the Smith, Bell & Co., Ltd., the duly licensed local agents of the steamship "ANKING", a vessel engaged in trade between the Philippine Islands and foreign countries, with the understanding that customs drawbacks allowed on such oil were to be secured for the account of petitioner; that said fuel oil was used for the purpose of propelling the said vessel while engaged in trade between the Philippine Islands and foreign countries; that the said agent filed the proper drawback entries in writing on the said fuel oil for the purpose of obtaining a refund for the account of petitioner of the import duties collected thereon, less one per cent (1%), in accordance with Section 21 of the Tariff Law of 1909; that respondent admitted these entries for that purpose and ordered that an inspector from his office verify the amount loaded on the said vessels and certify the said amount on the back of the said entries; that on or about the 5th day of April, 1933, the said inspector did verify the amounts of the fuel oil loaded on said vessels and

certified the said amount on the back of the said entries; that said drawback entries were opportunely filed with respondent and demand duly made for the refund of the said custom duties less one per cent (1%) thereof, as provided by Section 21 of the Tariff Law of 1909;

XI

That on or about the 28th day of September, 1932, petitioner imported into the Philippine Islands, on board the steamship "PLEIODON", fuel oil and paid in full the customs duties due thereon; that petitioner sold and delivered 114.97 metric tons of said fuel oil to Smith, Bell & Co., Ltd., the duly licensed local agents of the steamship "ANKING", a vessel engaged in trade between the Philippine Islands and foreign countries, with the understanding that customs drawbacks allowed on such oil were to be secured for the account of petitioner; that said fuel oil was used for the purpose of propelling the said vessel while engaged in trade between the Philippine Islands and foreign countries; that the said agent filed the proper drawback entries in writing on the said oil for the purpose of obtaining a refund for the account of petitioner or the import duties collected thereon, less one per cent (1%), in accordance with Section 21 of the Tariff Law of 1909; that respondent admitted these entries for that purpose and ordered that an inspector from his office verify the amount loaded on the said vessels and certify the said amount on the

back of the said entries; that on or about the 12th day of April, 1933, the said inspector did verify the amounts of the fuel oil loaded on said vessels and certified the said amount on the back of the said entries; that said drawback entries were opportunely filed with respondent and demand duly made for the refund of the said custom duties less one per cent (1%) thereof, as provided by Section 21 of the Tariff Law of 1909;

XII

That on or about the 28th day of September, 1932, petitioner imported into the Philippine Islands on board the steamship "PLEIODON", fuel oil and paid in full the custom duties due thereon; that petitioner sold and delivered 110.31 metric tons of said fuel oil to the Smith, Bell & Co., Ltd., the duly licensed local agents of the steamship "ANKING", a vessel engaged in trade between the Philippine Islands and foreign countries, with the understanding that customs drawbacks allowed on such oil were to be secured for the account of petitioner; that said fuel oil was used for the purpose of propelling the said vessel while engaged in trade between the Philippine Islands and foreign countries; that the said agent filed the proper drawback entries in writing on the said fuel oil for the purpose of obtaining a refund for the account of petitioner, of the import duties collected thereon, less one per cent (1%), in accordance with Section 21 of the Tariff Law of 1909; that respondent admitted these entries for

that purpose and ordered that an inspector from his office verify the amount loaded on the said vessels and certify the said amount on the back of the said entries; that on or about the 24th day of April, 1933, the said inspector did verify the amounts of the fuel oil loaded on said vessels and certified the said amount on the back of the said entries; that said drawback entries were opportunely filed with respondent and demand duly made for the refund of the said custom duties less one per cent thereof, as provided by Section 21 of the Tariff Law of 1909;

XIII

That on or about the 28th day of September, 1932, petitioner imported into the Philippine Islands, on board the steamship "PLEIODON", fuel oil and paid in full the custom duties due thereon; that petitioner sold and delivered 104.87 long tons of said fuel oil to Smith, Bell & Co., Ltd., the duly licensed local agents of the steamship "ANKING", a vessel engaged in trade between the Philippine Islands and foreign countries, with the understanding that customs drawbacks allowed on such oil were to be secured for the account of petitioner; that said fuel oil was used for the purpose of propelling the said vessel while engaged in trade between the Philippine Islands and foreign countries; that the said agent filed the proper drawback entries in writing on the said fuel oil for the purpose of obtaining a refund for the account of petitioner, of the import duties collected thereon, less one per cent

(1%), in accordance with Section 21 of the Tariff Law of 1909; that respondent admitted these entries for that purpose and ordered that an inspector from his office verify the amount loaded on the said vessel and certify the said amount on the back of the said entries; that on or about the 4th day of May, 1933, the said inspector did verify the amounts of the fuel oil loaded on said vessels and certified the said amount on the back of the said entries; that said drawback entries were opportunely filed with respondent and demand duly made for the refund of the said custom duties less one per cent (1%) thereof, as provided by Section 21 of the Tariff Law of 1909;

XIV

That on or about the 10th day of March, 1933, petitioner imported into the Philippine Islands, on board the steamship "ADNA", fuel oil and paid in full the custom duties due thereon; that petitioner sold and delivered 95.40 long tons of said fuel oil to Smith, Bell & Co., Ltd., the duly licensed local agents of the steamship "ANKING", a vessel engaged in trade between the Philippine Islands and foreign countries, with the understanding that customs drawbacks allowed on such oil were to be secured for the account of petitioner; that said fuel oil was used for the purpose of propelling the said vessels while engaged in trade between the Philippine Islands and foreign countries; that the said agent filed the proper drawbacks entries in writing

on the said fuel oil for the purpose of obtaining a refund for the account of petitioner, of the import duties collected thereon, less one per cent (1%), in accordance with Section 21 of the Tariff Law of 1909; that respondent admitted these entries for that purpose and ordered that an inspector from his office verify the amount loaded on the said vessels and certify the said amount on the back of the said entries; that on or about the 15th day of May, 1933, the said inspector did verify the amounts of the fuel oil loaded on said vessel and certified the said amount on the back of the said entries; that said drawback entries were opportunely filed with respondent and demand duly made for the refund of the said custom duties less one per cent (1%) thereof, as provided, by Section 21 of the Tariff Law of 1909.

XV

That on or about the 10th day of March, 1933, petitioner imported into the Philippine Islands, on board the steamship "ADNA", fuel oil and paid in full the custom duties due thereon; that petitioner sold and delivered 98.47 long tons of said fuel oil to Smith, Bell & Co., Ltd., the duly licensed local agents of the steamship "ANKING", a vessel engaged in trade between the Philippine Islands and foreign countries, with the understanding that customs drawbacks allowed on such oil were to be secured for the account of petitioner; that said fuel oil was used for the purpose of propelling the said

vessel while engaged in trade between the Philippine Islands and foreign countries; that the said agent filed the proper drawback entries in writing on the said fuel oil for the purpose of obtaining a refund for the account of petitioner, of the import duties collected thereon, less one per cent (1%), in accordance with Section 21 of the Tariff Law of 1909; that respondent admitted these entries for that purpose and ordered that an inspector from the office verify the amount loaded on the said vessels and certify the said amount on the back of the said entries; that on or about the 26th day of May, 1933, the said inspector did verify the amounts of the fuel oil loaded on said vessels and certified the said amount on the back of the said entries; that said drawback entries were opportunely filed with respondent and demand duly made for the refund of the said custom duties, less one per cent (1%) thereof, as provided in Section 21 of the Tariff Law of 1909;

XVI

That on or about the 10th day of March, 1933, petitioner imported into the Philippine Islands, on board the steamship "ADNA", fuel oil, and paid in full the custom duties due thereon; that petitioner sold and delivered 109.24 long tons of said fuel oil to Smith, Bell & Co., Ltd., the duly licensed local agents of the steamship "ANKING", a vessel engaged in trade between the Philippines Islands and foreign countries, with the understanding that

customs drawbacks allowed on such oil were to be secured for the account of petitioner; that said fuel oil was used for the purpose of propelling the said vessel while engaged in trade between the Philippine Islands and foreign countries; that the said agent filed the proper drawback entries in writing on the said fuel oil for the purpose of obtaining a refund for the account of petitioner, of the import duties collected thereon, less one per cent (1%), in accordance with section 21 of the Tariff Law of 1909; that respondent admitted these entries for that purpose and ordered that an inspector from the office verify the amount loaded on the said vessels and certify the said amount on the back of the said entries, that on or about the 3rd day of June, 1933, the said inspector did verify the amounts of the fuel oil loaded on said vessels and certified the said amount on the back of the said entries; that said drawback entries were opportunely filed with respondent and demand duly made for the refund of the said custom duties, less one per cent (1%), thereof, as provided in Section 21 of the Tariff Law of 1909;

XVII

That on or about the 10th day of March, 1933, petitioner imported into the Philippine Islands, on board the steamship "ADNA", fuel oil and paid in full the custom duties due thereon; that petitioner sold and delivered 121.27 long tons of said fuel oil to Smith, Bell & Co., Ltd., the duly licensed local

agents of the steamship "ANKING", a vessel engaged in trade between the Philippine Islands and foreign countries, with the understanding that customs drawbacks allowed on such oil were to be secured for the account of petitioner; that said fuel oil was used for the purpose of propelling the said vessel while engaged in trade between the Philippine Islands and foreign countries; that the said agent filed the proper drawback entries in writing on the said fuel oil for the purpose of obtaining a refund for the account of petitioner, of the import duties collected thereon, less one per cent (1%), in accordance with Section 21 of the Tariff Law of 1909; that respondent admitted these entries for that purpose and ordered that an inspector from his office verify the amount loaded on the said vessels and certify the said amount on the back of the said entries; that on or about the 16th day of June, 1933, the said inspector did verify the amounts of the fuel oil loaded on said vessels and certified the said amount on the back of the said entries; that said drawback entries were opportunely filed with respondent and demand duly made for the refund of the custom duties less one per cent (1%) thereof, as provided in Section 21 of the Tariff Law of 1909;

XVIII

That on or about the 28th day of September 1932, petitioner imported into the Philippine Islands, on board the steamship "PLEIODON", fuel oil and paid in full the custom duties due thereon; that

petitioner sold and delivered 20.39 long tons of said fuel oil to L. Everett, Inc., the duly licensed local agents of the steamship "FERNWOOD", a vessel engaged in trade between the Philippine Islands and foreign countries, with the understanding that customs drawbacks allowed on such oil were to be secured for the account of petitioner; that said fuel oil was used for the purpose of propelling the said vessel while engaged in trade between the Philippine Islands and foreign countries; that the said agent filed the proper drawback entries in writing on the said fuel oil for the purpose of obtaining a refund for the account of petitioner, of the import duties collected thereon, less one per cent (1%), in accordance with Section 21 of the Tarriff Law of 1909; that respondent admitted these entries for that purpose and ordered that an inspector from his office verify the amount loaded on the said vessels and certify the said amount on the back of the said entries; that on or about the 22nd day of April, 1933, the said inspector did verify the amounts of the fuel oil loaded on said vessels and certified the said amount on the back of the said entries; that said drawback entries were opportunely filed with respondent and demand duly made for the refund of the custom duties, less one per cent (1%) thereof as provided in Section 21 of the Tariff Law of 1909;

XIX

That on or about the 28th day of September,

1932, petitioner imported into the Philippine Islands, on board the steamship "PLEIODON", fuel oil and paid in full the custom duties due thereon; that petitioner sold and delivered 29.06 long tons of said fuel oil to L. Everett, Inc., the duly licensed local agents of the steamship "STANFORD", a vessel engager in trade between the Philippine Islands and foreign countries, with the understanding that customs drawbacks allowed on such oil were to be secured for the account of petitioner; that said fuel oil was used for the purpose of propelling the said vessel while engaged in trade between the Philippine Islands and foreign countries; that the said agent filed the proper drawback entries in writing on the said fuel oil for the purpose of obtaining a refund for the account of petitioner, of the import duties collected thereon, less one per cent (1%), in accordance with Section 21 of the Tariff Law of 1909; that respondent admitted these entries for that purpose and ordered that an inspector from his office verify the amount loaded on the said vessels and certify the said amount on the back of the said entries; that on or about the 29th day of April, 1933, the said inspector did verify the amounts of the fuel oil loaded on said vessels and certified the said amount on the back of the said entries; that said drawback entries were opportunely filed with respondent and demand duly made for the refund of the custom duties, less one per cent (1%) there-

of, as provided in Section 21 of the Tariff Law of 1909;

XX

That on or about the 10th day of March, 1933, petitioner imported into Philippine Islands, on board the steamship "ADNA", fuel oil and paid in full the custom duties due thereon; that petitioner sold and delivered 114.89 long tons of said fuel oil to G. S. Yuill & Co., Ltd., the duly licensed local agents of the steamship "TAIPING", a vessel engaged in trade between the Philippine Islands and foreign countries, with the understanding that customs drawbacks allowed on such oil were to be secured for the account of petitioner; that said fuel oil was used for the purpose of propelling the said vessel while engaged in trade between the Philippine Islands and foreign countries; that the said agent filed the proper drawback entries in writing on the said fuel oil for the purpose of obtaining a refund for the account of petitioner, of the import duties collected thereon, less one per cent (1%), in accordance with Section 21 of the Tariff Law of 1909; that respondent admitted these entries for that purpose and ordered that an inspector from his office verify the amount loaded on the said vessels and certify the said amount on the back of the said entries; that on or about the 20th day of May, 1933, the said inspector did verify the amounts of the fuel oil loaded on said vessels and certified the said amount on the back of the said entries; that said

drawback entries were opportunely filed with respondent and demand duly made for the refund of of the custom duties, less one per cent (1%) thereof, as provided in Section 21 of the Tariff Law of 1909;

XXI

That on or about the 15th day of April, 1933, petitioner imported into the Philippine Islands, on board the steamship "IRIS", fuel oil and paid in full the custom duties due thereon; that petitioner sold and delivered 95.35 long tons of the said fuel oil to G. S. Yuill & Co., Ltd., the duly licensed local agents of the steamship "CHANGTE", a vessel engaged in trade between the Philippine Islands and foreign countries; with the understanding that customs drawbacks allowed on such oil were to be secured for the account of petitioner; that said fuel oil was used for the purpose of propelling the said vessel while engaged in trade between the Philippine Islands and foreign countries; that the said agent filed the proper drawback entries in writing on the said fuel oil for the purpose of obtaining a refund for the account of petitioner, of the import duties collected thereon, less one per cent (1%), in accordance with Section 21 of the Tariff Law of 1909; that respondent admitted these entries for that purpose and ordered that an inspector from his office verify the amount loaded on the said vessels and certify the said amount on the back of the said entries; that on or about the 22nd day of

June, 1933, the said inspector did verify the amounts of the fuel oil loaded on said vessels and certified the said amount on the back of the said entries; that said drawback entries were opportunely filed with respondent and demand duly made for the refund of the custom duties, less one per cent (1%) thereof, as provided in Section 21 of the Tariff Law of 1909;

XXII

That on or about the 30th day of June, 1932, petitioner imported into the Philippine Islands, on board the steamship "ALETTA", fuel oil and paid in full the custom duties due thereon; that petitioner sold and delivered 99.40 long tons of said fuel oil to Compañia General de Tabacos de Filipinas, the duly licensed local agents of the steamship "PETER MAERSK", a vessel engaged in trade between the Philippine Islands and foreign countries, with the understanding that customs drawbacks allowed on such oil were to be secured for the account of petitioner; that said fuel oil was used for the purpose of propelling the said vessel while engaged in trade between the Philippine Islands and foreign countries; that the said agent filed the proper drawback entries in writing on the said fuel oil for the purpose of obtaining a refund for the account of petitioner, of the import duties collected thereon, less one per cent (1%), in accordance with Section 21 of the Tariff Law of 1909; that respondent admitted these entries for that purpose and ordered

that an inspector from his office verify the amount loaded on the said vessels and certify the said amount on the back of the said entries; that on or about the 5th day of November, 1932, the said inspector did verify the amounts of the fuel oil loaded on said vessels and certified the said amount on the back of the said entries; that said drawback entries were opportunely filed with respondent and demand duly made for the refund of the said custom duties, less one per cent (1%) thereof, as provided by Section 21 of the Tariff Law of 1909;

XXIII

That respondent has refused, and still refuses, to liquidate the said drawback entries filed by petitioner and to sign and issue the necessary warrants for refund to petitioner of the amount of import duties paid by it on the said imported fuel, for which the drawback entries above mentioned have been filed, less one per cent (1%) of said duties, as provided by law;

XXIV

That petitioner has no speedy and adequate remedy at law;

WHEREFORE, petitioner respectfully prays the judgment of this Honorable Court—

(a) Requiring respondent to liquidate the said drawback entries filed by petitioner;

(b) Requiring respondent to sign and issue the necessary warrants for refund to petitioner of

the amount of the duties paid by it on the said imported fuel oil, for which drawback entries have been filed, less one per cent, as provided by law;

(c) Giving and granting to petitioner such other and further relief as this Honorable Court may deem just and equitable.

Manila, P. I., September 23, 1933.

ROSS, LAWRENCE & SELPH.
By (SGD.) ROBERT JANDA
Attorneys for the petitioner,
414 National City Bank Bldg.,
Manila.

PHILIPPINE ISLANDS
CITY OF MANILA } SS.

R. H. GREGORY, being first duly sworn, deposes and says:

That he is the Manager of The Asiatic Petroleum Company, (Philippine Islands), Limited, petitioner in the above entitled case; that he has read the foregoing petition; and that the statements contained therein are true and correct to the best of his information, knowledge and belief.

(SGD.) R. H. GREGORY

Subscribed and sworn to before me this 23rd day of September, 1933, affiant exhibiting to me his personal cedula No. F-1487, issued at Manila, P. I., on the 12th day of January, 1933.

Document No. 254 Page 46 Book V Series of 1933.

(SGD.) MATIAS E. VERGARA
NOTARY PUBLIC

My commission expires December 31, 1934.

On October 17, 1933, the respondent filed the following answer:

(CAPTION AND TITLE OMITTED)

"ANSWER

Comes now the respondent Insular Collector of Customs by the undersigned Solicitor-General and as answer to the petition filed in the above-entitled case alleges:

That he denies each and every allegation contained in each and every paragraph of said petition.

As special defense the respondent alleges:

That the petitioner is not entitled to a refund of the duty imposed and collected upon the fuel oil referred to in the petition, less one per centum thereof, because the vessels for the propulsion of which, it is alleged, the said oil was used are not vessels of Philippine registry, and are not therefore, within the contemplation of section 21 of the Act of Congress of August 5, 1909, known as the Philippine Tariff Act of 1909.

WHEREFORE, respondent respectfully prays

that he be absolved of the complaint, with the costs taxed against the petitioner.

Manila, October 16, 1933.

(SGD.) SERAPIN P. HILADO
Solicitor General"

On November 14, 1933, plaintiff and defendant submitted the following stipulation of facts and asked the Court to render judgment in accordance therewith without the presentation of further evidence:

(CAPTION AND TITLE OMITTED)
"STIPULATION OF FACTS

Come now the parties in the above entitled case by their respective attorneys and submit the following stipulation of facts:

1. That the petitioner is a corporation duly organized and existing under the laws of the Philippine Islands, and the respondent is the duly qualified and acting as Insular Collector of Customs of the Philippines.

2. That on different dates the petitioner filed with the Bureau of Customs the entries for application of refund of duty on fuel oil for use of steam vessels herewith attached and made a part of this stipulation of facts as Exhibits 1 to 21 inclusive.

3. That the parties submit that the facts referred to in said exhibits are correct except those

stated in the second indorsement thereon appearing on the reverse side of the said exhibits.

4. That the Insular Collector of Customs refused to sign on the second indorsement appearing on the back of Exhibits 1 to 21 inclusive on the ground stated in his letter of August 3, 1933, which is made a part hereof as Exhibit 22.

5. That the vessels on which the oil referred to in Exhibits 1 to 21 inclusive were of the following registries:

| | |
|---|---|
| 'SAPAROEA' ..... | DUTCH |
| 'ANGLO-SWEDE' ..... | SWEDISH |
| 'PETER MAERSK' ..... | DANISH |
| 'ANNA MAERSK' ..... | NORWEGIAN |
| 'SOMERVILLE' ..... | NORWEGIAN |
| 'LINDENBANK' ..... | BRITISH |
| 'ANKING' ..... | BRITISH |
| 'FERNWOOD' ..... | NORWEGIAN |
| 'STANFORD' ..... | NORWEGIAN |
| 'TAIPING' ..... | BRITISH |
| 'CHANGTE' ..... | BRITISH |

and that these vessels were engaged in commerce between the Philippine Islands and foreign countries at the time the said oil was pumped into the ships' bunkers.

Manila, P. I., November 14, 1933.

SERAFIN P. HILADO
Solicitor-General

By: (SGD.) FELIPE NATIVIDAD
Assistant Attorney.

ROSS, LAWRENCE & SELPH
By: (SGD.) R. JANDA
Attorneys for the Petitioner
414 National City Bank Bldg.,
Manila."

Exhibits "1" to "22", mentioned in, and forming part of, the foregoing stipulation, are as follows:

---

Exh. "1"

B. C. FORM No. 213 Entry No. 1098

The Government of the Philippine Islands
Department of Finance
BUREAU OF CUSTOMS

---

ENTRY OF FUEL OIL FOR USE OF STEAM VESSELS

---

Entry of fuel oil intended to be loaded under Customs supervision by Roosevelt Steamship Agency Inc. and to be used for fuel on board the S. S. "Saparoea", ....., Master, a vessel propelled by steam, engaged in coastwise (or foreign) trade, now in port.

| *Quantiy.* | *Date of Importation or Rewarehousing.* | *Importing or Transporting Vessel.* | *Amount of Duty* |
|---|---|---|---|
| (170) One Hundred Seventy Tons 172720 more or less | Entry No. 32101-XE Voucher No. 37775 Paid 9/10/32 | S. S. Aletta Reg. No. 569 Arrived 30th, June, 1932 | $ ..... |

Refund of duty to be made for a/c of
The Asiatic Petroleum Co. (P. I.) Ltd.
ROOSEVELT STEAMSHIP AGENCY INC.
By (Sgd.) (ILLEGIBLE)

ROOSEVELT STEAMSHIP AGENCY INC.
By (Sgd.) ILLEGIBLE
Master or Owner or Agent

I do solemnly, sincerely and truly declare that the fuel oil described above, and now at ..... ....., is intended to be used for fuel on board the above-described vessel, and is not to be relanded at any place or port within the Philippine Islands.

ROOSEVELT STEAMSHIP AGENCY INC.
By (Sgd.) Illegible
Port of Manila

Declared before me this 20 day of September, 1932.

(Sgd.) ILLEGIBLE
Empowerd to administer oaths under the provisions of section 1147 of the Administrative Code.

CERTIFICATE OF IMPORTER OF FUEL OIL

Port of Manila, 20th Sept., 1932.

I hereby certify that I have sold to Roosevelt Steamship Agency Inc. for use on board the S. S.

"Saparoea" 148265 kilos of fuel oil and that said fuel oil was brought to this port in the S. S. Aletta, Reg. 569, Arrived 30th June 1932, and entered for duty on Entry No. 32101-XE, Voucher No. 37775, paid 10/9/32.

FOR THE ASIATIC PETROLEUM CO.,
(PHILIPPINE ISLANDS) LTD.

(Sgd.) ILLEGIBLE
Importer of Fuel Oil.

---

DIRECTIONS TO SURVEYOR ON ENTRY OF FUEL OIL FOR FUEL PERMIT TO LOAD

---

Port of Manila, Sept 20, 1932.

To the SURVEYOR OF THE PORT:

You will direct an inspector (or guard) to superintend the transfer and lading of the fuel oil described in the accompanying entry on board the above-mentioned vessel, and when such lading is completed to make due return to that effect.

(Sgd.) V. ALDANESE
Insular Collector of Customs
By (Sgd.) ILLEGIBE.

Entry No. 1098

## ENTRY OF FUEL OIL FOR USE ON STEAM VESSELS.

1st Indorsement

BUREAU OF CUSTOMS

Sept. 20, 1932.

I hereby certify that 148265 kilos 145.93 tons is the correct weight of the Fuel Oil laden this date on board the S/S Saparoea bound for High Sea.

(Sgd.) ILLEGIBLE
Weigher.

Approved and forwarded to the Collector of Customs.

(Sgd.) MIIGUEL ENRIQUEZ,
Chief, Piers & Inspectors Division.

Remarks:

| COMPUTATIONS. | | |
|---|---|---|
| Tons at $0.25 per ton .... | ..... | ..... |
| Less one per centum ..... | ..... | ..... |
| Refund due ..... | ..... | ..... |

2nd Indorsement

BUREAU OF CUSTOMS.

CERTIFICATE OF REFUND ON FUEL OIL USED ON VESSELS

---

Port of Manila, Nov. 1, 1932.

In pursuance of law, I hereby certify that the sum of ($366.95) Three Hundred Sixty-six & 95/100 Dollars, United States Currency, will be due from the Government of the Philippine Islands payable to The Asiatic Pet. Co. (P. I.) Ltd. or order, on the 20 day of Oct., 1932, for the refund of duties on 14826 kos. of Fuel Oil taken on board the S/S Saparoea, the duties arising from the importation of the said Fuel Oil having been paid by The Asiatic Pet. Co. (P. I.) Ltd. on the 10 day of Sept., 1932, per import entry No. 32101XE, Voucher No. 37775.

(Sgd.) J. OBIETA,
Insular Deputy Collector of Customs.

(₱2.00 and 20 c Doc. Stamps)

---

3rd Indorsement

BUREAU OF CUSTOMS

---

Port of ....., 19....

Respectfully transmitted to the Insular Collector of Customs for approval and refund.

.....
Collector of Customs.

Exhibit "2"

B. C. FORM No. 213 Entry No. 1099

The Government of the Philippine Islands

Department of Finance

BUREAU OF CUSTOMS

## ENTRY OF FUEL OIL FOR USE OF STEAM VESSELS

Entry of fuel oil intended to be loaded under Customs supervision by The Asiatic Petroleum Co. (P. I.) Ltd. and to be used for fuel on board the S. S. "Anglo-Swede", ..... Master, a vessel propelled by steam, engaged in coastwise (or foreign) trade, now in port.

| *Quantity.* | *Date of Importation Rewarehousing* | *Importing or Transporting Vessel.* | *Amount of Duty* | |
|---|---|---|---|---|
| Ninety 9195 one (90) Tons 93,471 Kos. more or less | Entry No.28960-XB Voucher No. 34813 Paid 8/15/32 | S.S. Josefina Reg. No. 525 Arrived 15th June, 1932 | $..... | ..... |

Refund of duty to be made for a/c of: The Asiatic Petroleum Co. (P. I.) Ltd.

(Sgd.) ILLEGIBLE

FOR THE ASIATIC PETROLEUM CO., (PHILIPPINE ISLANDS) LTD.

By (Sgd.) ILLEGIBLE

*Master or Owner or Agent.*

I do solemnly, sincerely and truly declare that the fuel oil described above, and now at ..... ....., is intended to be used for fuel on board the above-described vessel, and is not to be relanded at any place or port within the Philippine Islands.

FOR THE ASIATIC PETROLEUM CO.
( PHILIPPINE ISLANDS) LTD.
(Sgd.) ILLEGIBLE.

Port of Manila

Declared before me this 1 day of Oct., 1932

(Sgd.) ILLEGIBLE
Empowered to administer oaths under the provisions of section 1147 of the Administrative Code.

---

CERTIFICATE OF IMPORTER OF FUEL OIL

---

Port of Manila, 1st October, 1932.

I hereby certify that I have sold to The Asiatic Petroleum Co. (P. I.) Ltd. for use on board the S. S. "Anglo-Swede" (93421) kos. of fuel oil and that said fuel oil was brought to this port in the S.S. Josefina, Reg. 525, Arrived 15th June 1932, and entered for duty on Entry ,No. 28960-XB Voucher No. ....., paid .....

FOR THE ASIATIC PETROLEUM CO.
(PHILIPPINE ISLANDS) LTD.
(Sgd.) ILLEGIBLE
Importer of Fuel Oil.

DIRECTIONS TO SURVEYOR ON ENTRY OF FUEL OIL FOR FUEL.
PERMIT TO LOAD

---

Port of Manila, Oct. 1st.,1932

To the SURVEYOR OF THE PORT:

You will direct an inspector (or guard) to superintend the transfer and lading of the fuel oil described in the accompanying entry on board the above-mentioned vessel, and when such lading is completed to make due return to that effect.

V. ALDANESE,
Insular Collector of Customs.
By (Sgd.) ILLEGIBLE

---

Entry No. 1099

ENTRY OF FUEL FOR USE ON STEAM VESSELS

1st Indorsemnt

BUREAU OF CUSTOMS.

---

Manila, P. I. Oct. 2nd, 1932.

I hereby certify that (93421) kos. 91.55 tons is the correct weight of the Fuel Oil laden this date on board the S/S "Anglo-Swede" bound for Singapore.

(Sgd.) A. FELIPE.
Insp.

Approved and forwarded to the Collector of Customs.

(Sgd.) MIGUEL ENRIQUEZ
Chief, Piers & Inspectors' Division.

Remarks:

| COMPUTATIONS. | | |
|---|---|---|
| Tons at $0.25 per ton .... | ..... | ..... |
| Less one per centum ..... | ..... | ..... |
| Refund due ..... | ..... | ..... |

Exh. "2" (cont'd)
2nd Indorsement

BUREAU OF CUSTOMS.

CERTIFICATE OF REFUND ON FUEL OIL USED ON VESSELS.

Port of Manila, Nov. 1, 1932

In pursuance of law, I hereby certify that the sum of ($231.21) Two hundred thirty-one & 21/100 Dollars, United States currency, will be due from the Government of the Philippine Islands, payable to The Asiatic Pet. Co. (P. I.) Ltd. or order, on the 2 day of Nov., 1932, for the refund of duties on 934.21 kos. of Fuel Oil taken on board the S/S "Anglo Swede", the duties arising from the importation of the said Fuel Oil having been paid by The Asiatic Pet. Co. (P. I.) Ltd. on the 18 day of Aug.,

1932, per import entry No. 28960XB, Voucher No. 34313.

(Sgd.) J. OBIETA
Insular Deputy Collector of Customs
(P2.00 and 20 c documentary stamps)

---

3rd Indorsement
BUREAU OF CUSTOMS.

---

Port of ....., 19.....

Respectfully transmitted to the Insular Collector of Customs for approval and refund.

.....
Collector of Customs.

---

Exh. "3"

B. C. FORM NO. 213 Entry No.1226

The Government of the Philippine Islands
Department of Finance
BUREAU OF CUSTOMS

---

ENTRY OF FUEL OIL FOR USE OF STEAM VESSELS

---

Entry of fuel intended to be loaded under Customs supervision by Compañia General de Tabacos de Filipinas and to be used for fuel on board the S. S. "Peter Maersk", .....
Master, a vessel propelled by steam, engaged in coastwise (or foreign) trade, now in port.

| *Quantity* | *Date of Importation or Rewarehousing* | *Importing or Transporting Vessel* | *Amount of Duty* |
|---|---|---|---|
| One Hundred<br>100 Tons<br>more or less | Entry No. 32101-XD<br>Voucher No 36775<br>Paid 3/9/82 | S. S. "Alet'a"<br>Reg. No. 569<br>Arrived 30/6/32. | $..... |

Refund of duty to be made for a/c of: FOR CIA. GRAL DE TABACOS DE FILIPINAS

By (Sgd.) ILLEGIBLE
Agents
Maersk Line

The Asiatic Petroleum Co. (P. I.) Ltd..

FOR CIA. GRAL DE TABACOS DE FILIPINAS
By (Sgd.) ILLEGIBLE
Agents
Maersk Line

I do solemnly, sincerely and truly declare that the fuel oil described above, and now at ..... ....., is intended to be used for fuel on board the above-described vessel, and is not to be relanded at any place or port within the Philippine Islands.

FOR CIA. GRAL. DE TABACOS DE FILIPINAS

By (Sgd.) ILLEGIBLE
Agents
Maersk Line
Port of Manila.

Declared before me this 5 Nov., 1932.
(Sgd.) ILLEGIBLE
Empowered to administer oaths under the provision of section 1147 of the Administrative Code

---

Exh. "3" (cont'd)

CERTIFICATE OF IMPORTER OF FUEL OIL

---

Port of Manila, 5th November, 1932.

I hereby certify that I have sold to Compañia General de Tabacos de Filipinas for use on board the S. S. "Peter Maersk" (100,000) kos. of fuel oil, and that said fuel oil was brought to this port in the S. S. "Aletta", Reg. 659, Arrived 3/6/32, and entered for duty on Entry No. 32101-XD, Voucher No. 36775, paid 3/9/32.

FOR THE ASIATIC PETROLEUM CO.,
(PHILIPPINE ISLANDS) LTD.
(Sgd.) ILLEGIBLE
Importer of Fuel Oil

---

DIRECTIONS TO SURVEYOR ON ENTRY OF FUEL OIL FOR FUEL PERMIT TO LOAD.

---

Port of Manila, Nov. 5, 1932.

To the SURVEYOR OF THE PORT:

You will direct an inspector (or guard) to superintend the transfer and lading of the fuel oil

described in the accompanying entry on board the above-mentioned vessel, and when such lading is completed to make due return to that effect.

V. ALDANESE,
Insular Collector of Customs
By (Sgd.) ILLEGIBLE

---

Exh. "3" (cont'd)

ENTRY No. 1226

ENTRY OF FUEL OIL FOR USE ON STEAM VESSELS.

---

1st Indorsement

BUREAU OF CUSTOMS.

---

Nov. 7, 1932

I hereby certify that 100 tons (100, 000) kilos is the correct weight of the Fuel Oil laden this date on board the S/S "Peter Maersk" bound for New York via Cebu & Iloilo.

(Sgd.) ILLEGIBLE

Weigher.

Approved and forwarded to the Collector of Customs.

(SGD.) MIGUEL ENRIQUEZ,
Chief, Piers & Inspectors Division.

Remarks:

| COMPUTATION | | |
|---|---|---|
| ..Tons at $0.25 per ton.. | ..... | ..... |
| Less one per centum.... | ..... | ..... |
| Refund due ..... | ..... | ..... |

2nd Indorsement

BUREAU OF CUSTOMS

CERTIFICATE OF REFUND ON FUEL OIL USED ON VESSELS

Port of Manila, Dec. 1, 1932.

In pursuance of law, I hereby certify that the sum of ($247.50) Two hundred forty-seven & 50/100 Dollars, United States currency, will be due from the Government of the Philippine Islands, payable to The Asiatic Pet. Co. (P. I.) Ltd. or order, on the 7 day of Dec., 1932, for the refund of duties on 100,000 kos. of Fuel Oil taken on board the S/S Peter Maersk, the duties arising from the importation of the said Fuel Oil having been paid by The Asiatic Pet. Co. (P. I.) Ltd. on the 3 day of Sept., 1932, per import entry No. 32101XD, Voucher No. 36775.

.....

Collector of Customs.

$1 CUSTOMS FEE STAMP.

₱0.20 INTERNAL REVENUE.

3rd Indorsement

BUREAU OF CUSTOMS.

---

Port of ....., 19...

Respectfully transmitted to the Insular Collector of Customs for approval and refund.

.....

Collector of Customs.

---

Exh. "4"

B. C. FORM No. 213 Entry No. 193

The Government of the Philippine Islands

Department of Finance

BUREAU OF CUSTOMS

---

ENTRY OF FUEL OIL FOR USE OF STEAM VESSELS.

---

Entry of fuel oil intended to be loaded under Customs supervision by Compañía General de Tabacos de Filipinas and to be used for fuel on board the S. S. "Anna Maersk", ....., Master, a vessel propelled by steam, engaged in coastwise (or foreign) trade, now in port.

| *Quantity* | *Date of Importation or rewarehousing.* | *Importing or Transporting Vessel.* | *Amount of Duty* |
|---|---|---|---|
| 62.12 Tons<br>(63,113.92) Kos.<br>more or less | Entry No. 36193-XD<br>Voucher No. 47405<br>Paid 5th Nov., 1932 | S. S. Acasta<br>Reg. No. 641<br>Arrived 23 rd July, 1932 | $ ..... ..... |

Refund of duty to be made for a/c of: FOR CIA. GRAL. DE TABACOS DE FILIPINAS.

By (Sgd.) ILLEGIBLE
Agents

The Asiatic Petroleum Co. (P. I.) Ltd.
FOR CIA GRAL. DE TABACOS DE FILIPINAS

By (Sgd.) ILLEGIBLE
Agents.

I do solemnly, sincerely and truly declare that the fuel oil described above, and now at ..... ....., is intended to be used for fuel on board the above-described vessel, and is not to be relanded at any place or port within the Philippine Islands.

FOR CIA. GRAL. DE TABACOS DE FILIPINAS

By (Sgd.) ILLEGIBLE
Agents.

Port of ..... .....

Declared before me this 20 day of January, 1933.

(Sgd.) ILLEGIBLE
Empowered to administer oaths under
the provision of section 1147
of the Administrative Code.

---

CERTIFICATE OF IMPORTER OF FUEL OIL

---

Port of Manila, 19th Jan. 1933.

I hereby certify that I have sold to Compañía General de Tabacos de Filipinas for use on board the S. S. "Anna Maersk" (63,114) kos. of fuel oil, and that said fuel oil was brought to this port in the S. S. Acasta, Reg. 641, Arrived 23rd July 1932, and entered for duty on Entry No. 36193-XD, Voucher No. 47405, paid 5th Nov. 1932.

FOR THE ASIATIC PETROLEUM CO.,
(PHILIPPINE ISLANDS) Ltd.,

(Sgd.) ILLEGIBLE
Importer of Fuel Oil.

---

DIRECTIONS TO SURVEYOR ON ENTRY
OF FUEL OIL FOR FUEL.
PERMIT TO LOAD

---

Port of Manila, Jan. 20, 1933.

TO THE SURVEYOR OF THE PORT:

You will direct an inspector (or guard) to superintend the transfer and lading of the fuel oil

described in the accompanying entry on board the above-mentioned vessel, and when such lading is completed to make due return to that effect.

V. ALDANESE,
Insular Collector of Customs,
By (Sgd.) ILLEGIBLE

---

Entry No. 193

ENTRY OF FUEL OIL FOR USE ON STEAM VESSELS

1st Indorsement

BUREAU OF CUSTOMS.

---

Manila, Jan. 20, 1933.

I hereby certify that 62.12 Tons or (63,114) kos. is the correct weight of the fuel oil laden this date on board the S/S "Anna Maersk" bound for New York.

(Sgd.) M. DATOR
Inspector.

Approved and forwarded to the Collector of Customs.

(Sgd.) MIGUEL ENRIQUEZ
Chief, Piers and Inspectors' Division.

Remarks:

| COMPUTATION | | |
|---|---|---|
| ..Tons at $0.25 per ton.. | ..... | ..... |
| Less one per centum.... | ..... | ..... |
| Refund due ..... | ..... | ..... |

2nd Indorsement

BUREAU OF CUSTOMS.

CERTIFICATE OF REFUND ON COAL USED ON VESSELS.

Port of Manila, Mar. 1, 1933.

In pursuance of law, I hereby certify that the sum of ($156.21) One hundred fifty-six & 21/100 Dollars, United States currency, will be due from the Government of the Philippine Islands, payable to The Asiatic Pet. Co. (P. I.) Ltd. or order, on the 20th day of Feb., 1933, for the refund of duties on 63114 kos. of fuel oil taken on board the S/S Anna Maersk, the duties arising from the importation of the said fuel oil having been paid by The Asiatic Pet. Co. (P. I.) Ltd. on the 5th day of Nov., 1932, per import entry No. 36193-XD, Voucher No. 47405.

.....

Collector of Customs.

$1 CUSTOM FEE STAMP.

P0.20 INTERNAL REVENUE.

3rd Indorsement

BUREAU OF CUSTOMS.

Port of ....., 19...

Respectfully transmitted to the Insular Collector of Customs for approval and refund.

.....

Collector of Customs.

Exh. "5"

B. C. FORM No. 213 Entry No. .....

The Government of the Philippine Islands
Department of Finance

## BUREAU OF CUSTOMS

## ENTRY OF FUEL OIL FOR USE OF STEAM VESSELS

Entry of fuel oil intended to be loaded under Customs supervision by Compañía Gral. de Tabacos de Filipinas and to be used for fuel on board the S. S. "Peter Maersk", ....., Master, a vessel propelled by steam, engaged in coastwise (or foreign) trade, now in port.

| *Quantity* | *Date of Importation or Rewarehousing* | *Importing or Transporting Vessel.* | *Amount of Duty* | |
|---|---|---|---|---|
| Sixty (60) Tons more or less | Entry No. 47406-XH<br>Voucher No. 633 Paid 7/1/33. | S. S. "Pleiodon"<br>Reg. No. 834<br>Arrived 28/9/32. | ..... | ..... |

Refund of duty to be made for a/c of: CIA. GRAL. DE TABACOS DE FILIPINAS.

By (Sgd.) ILLEGIBLE
As Agents for
W. S. PeterMaersk

The Asiatic Petroleum Co. (P. I.) Ltd.
CIA. GRAL .DE TABACOS DE FILIPINAS
By (Sgd.) Illegible
As Agents for
W. S. Peter Maersk

I do solemnly, sincerely and truly declare that the fuel oil described above, and now at ..... ....., is intended to be used for fuel on board the above-described vessel, and is not to be relanded at any place or port within the Philippine Islands.

CIA. GRAL. DE TABACOS DE FILIPINAS
By (Sgd.) ILLEGIBLE
As Agents for
W. S. Peter Maersk
Port of Manila

Declared before me this 26 day of April, 1933.

(Sgd.) ILLEGIBLE
Empowered to administer oaths under the provision of section 1147 of the Administrative Code.

---

CERTIFICATE OF IMPORTER OF FUEL OIL.

---

Port of Manila, 26th April, 1933.

I hereby certify that I have sold to Compañía General de Tabacos de Filipinas for use on board the S. S. "Peter Maersk" ..... tons of fuel oil and that said fuel oil was brought

to this port in the S. S. "Pleiodon", Reg. 834, Arrived 28th September, 1932, and entered for duty on Entry No. 47406-XH, Voucher No. 633, paid 7th January, 1933.

For the ASIATIC PETROLEUM CO.
(PHILIPPINE ISLANDS,) Ltd.

(Sgd.) ILLEGIBLE
Importer of Fuel Oil.

---

DIRECTIONS TO SURVEYOR ON ENTRY OF FUEL OIL FOR FUEL.
PERMIT TO LOAD.

---

Port of Manila, April 26, 1933.

To the SURVEYOR OF THE PORT:

You will direct an inspector (or guard) to superintend the transfer and lading of the fuel oil described in the accompanying entry on board the above-mentioned vessel, and when such lading is completed to make due return to that effect.

V. ALDANESE
Insular Collector of Customs
By (Sgd.) Illegible.

---

Entry No. .....

ENTRY OF COAL FOR USE ON STEAM VESSELS.
1st Indorsement

BUREAU OF CUSTOMS.

Manila, April 26, 1933.

I hereby certify that only 52,140 kos. or 52.14 long tons is the correct weight of the coal laden this date on board the S/S "Peter Maersk" bound for "New York".

(Sgd.) C. NICOLAS
Insp.

Approved and forwarded to the Collector of Customs.

(Sgd.) MIGUEL ENRIQUEZ
Chief, Piers & Inspectors' Division

Remarks:

| COMPUTATION | | |
|---|---|---|
| ..Tons at $0.25 per ton.. | ..... | ..... |
| Less one per centum.... | ..... | ..... |
| Refund due ..... | ..... | ..... |

2d Indorsement.

BUREAU OF CUSTOMS.

CERTIFICATE OF REFUND ON COAL USED ON VESSELS.

Port of Manila, 19....

In pursuance of law, I hereby certify that the sum of ($.....) ..... ..... Dollars, United States cur-

rency, will be due from the Government of the Philippine Islands, payable to ..... ....., or order, on the....day of ....., 19.... for the refund of duties on ..... tons of coal taken on board the S/S ....., the duties arising from the importation of the said coal having been paid by ..... ..... on the ..... day of ....., 19.... per import entry No. ....., Voucher No. .....

.....
Collector of Customs.

| $1 CUSTOM FEE STAMP | $0.20 INTERNAL REVENUE |
|---|---|

---

3d Indorsement

BUREAU OF CUSTOMS.

---

Port of ....., 19....

Respectfully transmitted to the Insular Collector of Customs for approval and refund.

.....
Collector of Customs.

Exh. "6"

B. C. FORM NO. 213 Entry No.....

The Government of the Philippine Islands
Department of Finance

BUREAU OF CUSTOMS

## ENTRY OF FUEL OIL FOR USE OF STEAM VESSELS

Entry of fuel oil intended to be loaded under Customs supervision by Compañía General de Tabacos de Filipinas and to be used for fuel on board the S. S. "Austvard", ..... Master, a vessel propelled by steam, engaged in coastwise (or foreign) trade, now in port.

| *Quantity* | *Date of Importation or Rewarehousing* | *Importing or Transporting Vessel.* | *Amount of Duty* |
|---|---|---|---|
| One Hundred Fifty (150) Tons more or less | Entry No. 21793-XB<br>Voucher No. .....<br>Paid ..... | S. S. Iris<br>Reg. No. 396<br>Arrived 2nd May, 1933 | $ ..... |

Refund of duty to be made for a/c of: CIA. GRAL. DE TABACOS DE FILIPINAS.

By (Sgd.) ILLEGIBLE
Agent.

The Asiatic Petroleum Co. (P. I.) Ltd.
CIA. GRAL. DE TABACOS DE FILIPINAS
By (Sgd.) ILLEGIBLE.
Agent.

I do solemnly, sincerely and truly declare that the fuel oil described above, and now at ..... ....., is intended to be used for fuel on board the above-described vessel, and is not to be relanded at any place or port within the Philippine Islands.

CIA. GRAL. DE TABACOS DE FILIPINAS
By (Sgd.) Illegible
Agent.

Port of .....

Declared before me this July 3, 1933.

(Sgd.) ILLEGIBLE,
Empowered to administer oaths under the provisions of section 1147 of the Administrative Code.

---

CERTIFICATE OF IMPORTER OF FUEL OIL

---

Port of Manila, 3rd July, 1933.

I hereby certify that I have sold to Compañía General de Tabacos de Filipinas for use on board the S. S. "Austvard" ..... tons of fuel oil and that said fuel oil was brought to this port in the S. S. Iris, Reg. 396, Arrived 2nd May

1933 and entered for duty on Entry No. 21793-XB, Voucher No. .....,
paid .....

FOR THE ASIATIC PETROLEUM CO.
(PHILIPPINE ISLANDS) Ltd.

(Sgd. ILLEGIBLE
Importer of Fuel Oil.

---

DIRECTIONS TO SURVEYOR ON ENTRY OF FUEL OIL FOR FUEL.
PERMIT TO LOAD.

---

Port of Manila, July 3, 1933.

To the SURVEYOR OF THE PORT:

You will direct an inspector (or guard) to superintend the transfer and lading of the fuel oil described in the accompanying entry on board the above-mentioned vessel, and when such lading is completed to make due return to that effect.

V. ALDANESE,
Insular Collector of Customs.
By (Sgd:) Illegible

---

Entry No. .....

ENTRY OF COAL FOR USE ON STEAM VESSELS.

1st Indorsement

BUREAU OF CUSTOMS.

---

Manila, July 5th, 1933.

I hereby certify that 141.76 long tons is the correct weight of the coal laden this date on board the S/S "Austvard" bound for Foreign port.

(Sgd.) ILLEGIBLE
Insp.

Approved and forwarded to the Collector of Customs.

(Sgd.) MIGUEL ENRIQUEZ,
Chief, Piers & Inspectors' Division.

Remarks:

| COMPUTATION | | |
|---|---|---|
| ..Tons at $0.25 per ton .. | ..... | ..... |
| Less one per centum..... | ..... | ..... |
| Refund due ..... | ..... | ..... |

2d Indorsement.

BUREAU OF CUSTOMS.

CERTIFICATE OF REFUND ON COAL USED ON VESSELS

Port of ....., 19....

In pursuance of law, I hereby certify that the sum of ($.....) ..... ..... Dollars, United States currency, will be due from the Government of the Philippine Islands, payable to ..... ....., or order, on the....day

of ....., 19.... for the refund of duties on ..... tons of coal taken on board the S/S ....., the duties arising from the importation of the said coal having been paid by ..... ..... on the ..... day of ....., 19.... per import entry No. ....., Voucher No. .....

.....
Collector of Customs.

$1 CUSTOMS FEE STAMP.

$0.20 INTERNAL REVENUE

3d Indorsement
BUREAU OF CUSTOMS.

Port of ....., 19....

Respectfully transmitted to the Insular Collector of Customs for approval and refund.

.....
Collector of Customs.

Exh. "7"

B. C. FORM No. 213 Entry No. 420

The Government of the Philippine Islands
Department of Finance
BUREAU OF CUSTOMS

## ENTRY OF FUEL OIL FOR USE OF STEAM VESSELS

Entry of fuel oil intended to be loaded under Customs supervision by Cia. Gral de Tabacos de Filipinas and to be used for fuel on board the S. S. "Somerville", ....., Master, a vessel propelled by steam, engaged in coastwise (or foreign) trade, now in port.

| *Quantity* | *Date of Importation or Rewarehousing* | *Importing or Transporting Vessel.* | *Amount of Duty* |
|---|---|---|---|
| Fifty (50) Tons more or less | Entry No. 47406-XF<br>Voucher No. 55239<br>Paid 24/12/32 | S. S. "Pleiodon"<br>Reg. No. 834<br>Arrived 28/9/32 | $..... |

Refund of duty to be made for a/c of: FOR CIA GRAL DE TABACOS DE FILIPINAS
By (Sgd.) ILLEGIBLE
Agents.
W. S. Somerville
The Asiatic Petroleum Co. (P. I.) Ltd.

FOR CIA. GRAL. DE TABACOS DE FILIPINAS
By (Sgd.) ILLEGIBLE
Agents.
W. S. Somerville

I do solemnly, sincerely and truly declare that the fuel oil described above, and now at ..... ....., is intended to be used for fuel

on board the above-described vessel, and is not to be relanded at any place or port within the Philippine Islands.

FOR CIA. GRAL. DE TABACOS DE FILIPINAS

By (Sgd.) ILLEGIBLE

Agents.

W. S. Somerville

Port of Manila.

Declared before me this 25 day of March, 1933.

(Sgd.) ILLEGIBLE

Empowered to administer oaths under the provision of section 1147 of the Administrative Code.

---

CERTIFICATE OF IMPORTER OF FUEL OIL.

---

Port of Manila, 24th March, 1933.

I hereby certify that I have sold to Compañía General de Tabacos de Filipinas for use on board the S. S. "Somerville" ..... tons of fuel oil and that said fuel oil was brought to this port in the S. S. "Pleiodon", Reg. No. 834, Arrived 28th September, 1932, and entered for duty on Entry No. 47406-XF, Voucher No. 55239, paid 24th December, 1932.

FOR THE ASIATIC PETROLEUM CO., (PHILIPPINE ISLANDS), Ltd.

(Sgd.) ILLEGIBLE

Importer of Fuel Oil.

DIRECTION TO SURVEYOR ON ENTRY OF FUEL OIL FOR FUEL. PERMIT TO LOAD

---

Port of Manila, March 25, 1933.

To the SURVEYOR OF THE PORT:

You will direct an inspector (or guard) to superintend the transfer and lading of the fuel oil described in the accompanying entry on board the above-mentioned vessel, and when such lading is completed to make due return to that effect.

V. ALDANESE
Insular Collector of Customs.
By (Sgd.) Illegible

---

Entry No. 420

ENTRY OF COAL FOR USE ON STEAM VESSELS.

1st Indorsement

BUREAU OF CUSTOMS.

---

March 25, 1933.

I hereby certify that 53,840 kilos 53.84 tons is the correct weight of the coal laden this date on board the S/S Somerville bound for New York, U. S. A.

(Sgd.) F. RIVERA
Insp.

Approved and forwarded to the Collector of Customs.

(Sgd.) MIGUEL ENRIQUEZ
Chief, Piers & Inspectors' Division.

Remarks:

| COMPUTATION | | |
|---|---|---|
| Tons at $0.25 per ton | ..... | ..... |
| Less one per centum | ..... | ..... |
| Refund due | ..... | ..... |

2d Indorsement

BUREAU OF CUSTOMS.

CERTIFICATE OF REFUND ON COAL USED ON VESSELS.

Port of Manila, May 1, 1933.

In pursuance of law, I hereby certify that the sum of ($13.46) Thirteen and 46/100 Dollars, United States currency, will be due from the Government of the Philippine Islands, payable to The Asiatic Pet. Co. (P. I.) LTD. or order, on the 25 day of April, 1933, for the refund of duties on 53.84 tons of fuel oil taken on board the S/S Somerville, the duties arising from the importation of the said coal having been paid by The Asiatic Pet. Co., Ltd. on the 24 day of Dec., 1932, per import entry No. 47406-XF, Voucher No. 55239.

.....
Insular Deputy Collector of Customs.

$1 CUSTOMS FEE STAMP.

P0.20 INTERNAL REVENUE

3d Indorsement

BUREAU OF CUSTOMS.

Port of ....., 19...

Respectfully transmitted to the Insular Collector of Customs for approval and refund.

.....

Collector of Customs.

Exh. "8"

B. C. FORM No. 213 Entry No. .....

The Government of the Philippine Islands

Department of Finance

BUREAU OF CUSTOMS

ENTRY OF FUEL OIL FOR USE OF STEAM VESSELS

Entry of fuel oil intended to be loaded under Customs supervision by Smith, Bell & Co., Ltd. and to be used for fuel on board the S. S. "Lindenbank", ....., Master, a vessel propelled by steam, engaged in coastwise (or foreign) trade, now in port.

| *Quantity* | *Date of Importation or Rewarehousing* | *Importing or Transporting Vessel.* | *Amount of Duty* |
|---|---|---|---|
| One Hundred Twenty (120) Tons more or less. | Entry No. 47406-XG Voucher No. 56046 Paid 31/12/32 | S. S. "Pleiodon" Reg. No. 834 Arrived 28/9/32 | $ ..... |

Refund of duty to be made for a/c of: SMITH BELL & CO., LTD.
Per (Sdg.) Illegible
Agents.

The Asiatic Petroleum Co., (P. I.) Ltd.
SMITH, BELL & CO., LTD.
Per (Sgd.) Illegible
Agents.

I do solemnly, sincerely and truly declare that the fuel oil described above, and now at ....., is intended to be used for fuel on board the above-described vessel, and is not to be relanded at any place or port within the Philippine Islands.

SMITH BELL & CO., LTD.
Per (Sdg.) Illegible
Port of Manila.

Declared before me this 5 day of April, 1933.

(Sgd.) ILLEGIBLE
Empowered to administer oaths under the provision of section 1147 of the Administrative Code.

Exh. "8" (cont'd)

CERTIFICATE OF IMPORTER OF FUEL OIL.

---

Port of Manila, 5th April, 1933.

I hereby certify that I have sold to Smith, Bell & Co., Ltd. for use on board the S. S. "Lindenbank" .....tons of fuel oil, and that said fuel oil was brought to this port in the S. S."Pleiodon", Reg. 834, Arrived 28th September, 1932, and entered for duty on Entry No. 47406-XG, Voucher No. 56046, paid 31st December, 1932.

FOR THE ASIATIC PETROLEUM CO., (PHILIPPINE ISLANDS), LTD.

(Sgd.) ILLEGIBLE
Importer of Fuel Oil.

---

DIRECTIONS TO SURVEYOR ON ENTRY OF FUEL OIL FOR FUEL PERMIT TO LOAD.

---

Port of Manila, April 5,1933.

To the SURVEYOR OF THE PORT:

You will direct an inspector (or guard) to superintend the transfer and lading of the fuel oil described in the accompanying entry on board the above-mentioned vessel, and when such lading is completed to make due return to that effect.

V. ALDANESE
Insular Collector of Customs
By (Sgd.) ILLEGIBLE

Exh. "8" (cont'd)

Entry No. .....

ENTRY OF COAL FOR USE ON STEAM VESSELS.

1st Indorsement

BUREAU OF CUSTOMS.

April 5, 1933.

I hereby certify that Sixty-one (61) tons is the correct weight of the coal laden this date on board the S/S Lindenbank bound for New York.

(Sgd.) ILLEGIBLE

Insp.

Approved and forwarded to the Collector of Customs.

(Sgd.) MIGUEL ENRIQUEZ

Chief, Piers & Inspectors' Division.

Remarks:

| COMPUTATION | | |
|---|---|---|
| ..Tons at $0.25 per ton .. | ..... | ..... |
| Less one per centum..... | ..... | ..... |
| Refund due ..... | ..... | ..... |

2d Indorsement.

BUREAU OF CUSTOMS.

CERTIFICATE OF REFUND ON COAL USED ON VESSELS.

Port of Manila, 19....

In pursuance of law, I hereby certify that the

sum of ($.....) ..... ..... Dollars, United States currency, will be due from the Government of the Philippine Islands, payable to ....., or order, on the....day of ....., 19.... for the refund of duties on ..... tons of coal taken on board the S/S ....., the duties arising from the importation of the said coal having been paid by ..... on the ..... day of ....., 19.... per import entry No. ....., Voucher No .....

.....
Collector of Customs.

$1 CUSTOMS FEE STAMP.

$0.20 INTERNAL REVENUE

3d Indorsement

BUREAU OF CUSTOMS.

Port of ....., 19....

Respectfully transmitted to the Insular Collector of Customs for approval and refund.

.....
Collector of Customs.

Exh. "9"

B. C. FORM No. 213 Entry No.....

The Government of the Philippine Islands
Department of Finance

BUREAU OF CUSTOMS

## ENTRY OF FUEL FOR USE OF STEAM VESSELS

Entry of fuel oil intended to be loaded under Customs supervision by Smith, Bell & Co., Ltd. and to be used for fuel on board the S. S. "Anking", ....., Master, a vessel propelled by steam, engaged in coastwise (or foreign) trade, now in port.

| *Quantity* | *Date of Importation or Rewarehousing* | *Importing or Transporting Vessel.* | *Amount of Duty* |
|---|---|---|---|
| One Hundred Twenty (120) Tons more or less. | Entry No. 47406-XG<br>Voucher No. 56046<br>Paid 31/12/32 | S. S. "Pleiodon"<br>Reg. No. 834<br>Arrived 28/9/32 | $.....<br>..... |

Refund of duty to be made for a/c of: SMITH, BELL & CO., LTD.
Per (Sgd.) ILLEGIBLE
Agents.

The Asiatic Petroleum Co., (P. I.) Ltd.
Per (Sgd.) ILLEGIIBLE
Agents.

I do solemnly, sincerely and truly declare that the fuel oil described above, and now at..... ....., is intended to be used for fuel on board the above-described vessel, and is not to be relanded at any place or port within the Philippine Islands."

SMITH, BELL & CO., LTD.
Per (Sgd.) ILLEGIBLE
Agents.
Port of Manila.

Declared before me this 5 day of April, 1933.

(Sgd.) ILLEGIBLE
Empowered to administer oaths under the provision of section 1147 of the Administrative Code.

Exh. "9" (cont'd)

---

CERTIFICATE OF IMPORTER OF FUEL OIL

---

Port of Manila, 5th April, 1933.

I hereby certify that I have sold to Smith, Bell & Co., Ltd. for use on board the S. S."Anking" ..... tons of fuel oil and that said fuel oil was brought to this port in the S. S. "Pleiodon", Reg. 834, Arrived 28/9/32 and entered for duty on Entry No. 47406-XG, Voucher No. 56046, paid 31/12/32.

FOR THE ASIATIC PETROLEUM CO.
(PHILIPPINE ISLANDS) Ltd.
(Sgd.) ILLEGIBLE
Importer of Fuel Oil

---

DIRECTIONS TO SURVEYOR ON ENTRY OF FUEL OIL FOR FUEL PERMIT TO LOAD.

---

Port of Manila, April 5, 1933.

To the SURVEYOR OF THE PORT:

You will direct an inspector (or guard) to superintend the transfer and lading of the fuel oil described in the accompanying entry on board the above-mentioned vessel, and when such lading is completed to make due return to that effect.

V. ALDANESE
Insular Collector of Customs
By (Sgd ) ILLEGIBLE

Exh. '9" cont'd)
Entry No.....

ENTRY OF COAL FOR USE ON STEAM VESSELS.

1st Indorsement

BUREAU OF CUSTOMS.

---

Manila, Apr. 5, 1933.

I hereby certify that only 121.26 tons is the

correct weight of the coal laden this date on board the S/S "Anking" bound for Amoy, China.

(Sgd.) ILLEGIBLE
Insp.

Approved and forwarded to the Collector of Customs.

(Sgd.) MIGUEL ENRIQUEZ
Chief, Piers & Inspectors' Division.

Remarks:

| COMPUTATION | | |
|---|---|---|
| ..Tons at $0.25 per ton .. | ..... | ..... |
| Less one per centum..... | ..... | ..... |
| Refund due ..... | ..... | ..... |

Exh. "9" cont'd)

2d Indorsement.

BUREAU OF CUSTOMS.

CERTIFICATE OF REFUND ON COAL USED ON VESSELS.

---

Port of Manila, 19....

In pursuance of law, I hereby certify that the sum of ($.....) ..... ..... Dollars, United States currency, will be due from the Government of the Philippine Islands, payable to ..... ....., or order, on the....day of ....., 19.... for the refund of duties on ..... tons of coal taken

on board the S/S .....,
the duties arising from the importation of the said coal having been paid by .....
..... on the ..... day of
....., 19.... per import entry No. ....., Voucher No. .....

.....
Collector of Customs.

| $1 CUSTOMS FEE STAMP. | $0.20 INTERNAL REVENUE |
|---|---|

3d Indorsement

BUREAU OF CUSTOMS.

Port of ....., 19....
Respectfully transmitted to the Insular Collector of Customs for approval and refund.

.....
Collector of Customs.

Exh, "10"

B. C. FORM No. 213 Entry No.....

The Government of the Philippine Islands
Department of Finance
BUREAU OF CUSTOMS

ENTRY OF FUEL OIL FOR USE OF STEAM VESSELS

Entry of fuel oil intended to be loaded under Customs supervision by Smith, Bell & Co., Ltd. and to be used for fuel on board the S. S. "Anking", ....., Master, a vessel propelled by steam, engaged in coastwise (or foreign) trade, now in port.

| *Quantity* | *Date of Importation or Rewarehousing* | *Importing or Transporting Vessel.* | *Amount of Duty.* |
|---|---|---|---|
| One Hundred Twenty (120) Tons more or less | Entry No. 47806-XH Voucher No. 633 Paid 7th Jan. 1933 | S. S. Pleiodon Reg. No. 834 Arrived 28th Sept. 1932 | $..... |

Refund of duty to be made for a/c of: SMITH, BELL & CO., LTD.
Per (Sgd.) ILLEGIBLE
Agents.

The Asiatic Petroleum Co. (P. I.) Ltd.
SMITH, BELL & CO., LTD.
Agents.

I do solemnly, sincerely and truly declare that the fuel oil described above, and now at ....., is intended to be used for fuel on board the above-described vessel, and is not to be relanded at any place or port within the Philippine Islands.

SMITH, BELL & CO., LTD.
Per (Sgd.) ILLEGIBLE
Illegible
Port of .....

Declared before me this 12 day of April, 1933.
(Sgd.) ILLEGIBLE
Empowered to administer oaths under
the provision of section 1147
of the Administrative Code

Exh. "10" (cont'd)

CERTIFICATE OF IMPORTER OF FUEL OIL.

Port of Manila, 12th April, 1933.

I hereby certify that I have sold to Smith, Bell & Co. Ltd. for use on board the S. S. "Anking" .....tons of fuel oil, and that said fuel oil was brought to this port in the S. S. "Pleiodon", Reg. 834, Arrived 28th Sept. 1932 and entered for duty on Entry No. 47406-XH, Voucher No. 633, paid 7th Jan. 1933.

FOR THE ASIATIC PETROLEUM CO.
(PHILIPPINE ISLANDS) Ltd.
(Sgd.) ILLEGIBLE
Importer of Fuel Oil.

DIRECTIONS TO SURVEYOR ON ENTRY OF FUEL OIL FOR FUEL. PERMIT TO LOAD.

Port of Manila, April 12, 1933.

To the SURVEYOR OF THE PORT:

You will direct an inspector (or guard) to

superintend the transfer and lading of the fuel oil described in the accompanying entry on board the above-mentioned vessel, and when such lading is completed to make due return to that effect.

V. ALDANESE
Insular Collector of Customs
By (Sgd.) ILLEGIBLE

Entry No.....

ENTRY ON COAL FOR USE
ON STEAM VESSELS.

1st Indorsement

BUREAU OF CUSTOMS.

---

Manila, P. I. April 13, 1933.

I hereby certify that 114,971 kilos or 113.16 L. tons is the correct weight of the coal laden this date on board the S/S"Anking" bound for Amoy.

(Sgd.) F. RIVERA
Insp.

Approved and forwarded to the Collector of Customs.

(Sgd.) MIGUEL ENRIQUEZ
Chief, Piers & Inspectors' Division.

Remarks:

| COMPUTATION | | |
|---|---|---|
| ..Tons at $0.25 per ton .. | ..... | ..... |
| Less one per centum..... | ..... | ..... |
| Refund due ..... | ..... | ..... |

2d Indorsement

BUREAU OF CUSTOMS.

CERTIFICATE OF REFUND ON COAL USED ON VESSELS.

---

Port of Manila, 19...

In pursuance of law, I hereby certify that the sum of ($.....) ..... ..... Dolla ...ed States currency, will be due from the Government of the Philippine Islands, payable to ..... ..... or order, on the....day of ....., 19.... for the refund of duties on ..... tons of coal taken on board the S/S ....., the duties arising from the importation of the said coal having been paid by ..... ..... on the ..... day of ....., 19.... per import entry No. ....., Voucher No. .....

.....

Collector of Customs

| $1 CUSTOMS FEE STAMP. | ₱0.20 INTERNAL REVENUE |
|---|---|

3d Indorsement
BUREAU OF CUSTOMS.

Port of ....., 19....
Respectfully transmitted to the Insular Collector of Customs for approval and refund.

.....
Collector of Customs

Exh. "11"

B. C. FORM No. 213 Entry No. .....

The Government of the Philippine Islands
Department of Finance
BUREAU OF CUSTOMS

ENTRY OF FUEL OIL FOR USE OF STEAM VESSELS

Entry of fuel oil intended to be loaded under Customs supervision by Smith, Bell & Co., Ltd. and to be used for fuel on board the S. S. "Anking", ....., Master, a vessel propelled by steam, engaged in coastwise (or foreign) trade, now in port.

| *Quantity* | *Date of Importation or Rewarehousing* | *Importing or Transporting Vessel* | *Amount of Duty* |
|---|---|---|---|
| One Hundred Twenty (120) Tons more or less. | Entry No. 47406-XH Voucher No. 633 | Paid 7/1/33. S. S. "Pleiodon" Reg. No. 834 Arrived 28th Sept., 1932 | $ ..... |

Refund of duty to be made for a/c of: SMITH, BELL & CO., LTD.
Per (Sgd.) ILLEGIBLE
Agents.

The Asiatic Petroleum Co., (P. I.) Ltd.
SMITH, BELL & CO., LTD.
Per (Sgd.) ILLEGIBLE
Agents.

I do solemnly, sincerely and truly declare that the fuel oil described above, and now at ..... ....., is intended to be used for fuel on board the above-described vessel, and is not to be relanded at any place or port within the Philippine Islands.

SMITH, BELL & CO., LTD.
Per (Sgd.) ILLEGIBLE
Agents.
Port of Manila.

Declared before me this April 24, 1933.
(Sgd.) ILLEGIBLE
Empowered to administer oaths under the provision of section 1147 of the Administrative Code.

---

## CERTIFICATE OF IMPORTER OF FUEL OIL.

---

Port of Manila, 24th April, 1933.

I hereby certify that I have sold to Smith, Bell & Co., Ltd. for use on board the S. S. "Anking" ..... tons of fuel oil, and that said

fuel oil was brought to this port in the S. S. "Pleiodon", Reg. 834, Arrived 28th September, 1932 and entered for duty on Entry No. 47406-XH, Voucher No. 633, paid 7th January, 1933.

FOR THE ASIATIC PETROLEUM CO.
(PHILIPPINE ISLANDS) Ltd.
(Sgd.) ILLEGIBLE
Importer of Fuel Oil

---

DIRECTIONS TO SURVEYOR ON ENTRY OF FUEL OIL FOR FUEL.
PERMIT TO LOAD.

---

Port of Manila, April 24, 1933

To the SURVEYOR OF THE PORT:

You will direct an inspector (or guard) to superintend the transfer and lading of the fuel oil described in the accompanying entry on board the above-mentioned vessel, and when such lading is completed to make due return to that effect.

V. ALDANESE
Insular Collector of Customs
By (Sgd.) Illegible.

---

Entry No.....

ENTRY OF COAL FOR USE ON STEAM VESSELS.

1st Indorsement

BUREAU OF CUSTOMS.

---

April 24, 1933.

I hereby certify that 110,317.28 kilos 108.58 tons is the correct weight of the coal laden this date on board the S/S Anking bound for Amoy.

(Sgd.) ILLEGIBLE
Weigher.

Approved and forwarded to the Collector of Customs.

(Sgd.) MIGUEL ENRIQUEZ
Chief, Piers & Inspectors' Division.

Remarks:

| COMPUTATION. | | |
|---|---|---|
| ..Tons at $0.25 per ton.. | ..... | ..... |
| Less one per centum .... | ..... | ..... |
| Refund due ..... | ..... | ..... |

2d Indorsement

BUREAU OF CUSTOMS.

CERTIFICATE OF REFUND ON COAL USED ON VESSELS.

Port of Manila, 19...

In pursuance of law, I hereby certify that the sum of ($.....) ..... ..... Dollars, United States currency, will be due from the Government of the Philippine Islands, payable to ..... ..... or order, on the....day of ....., 19.... for the

refund of duties on ..... tons of coal taken on board the S/S ....., the duties arising from the importation of the said coal having been paid by ..... ..... on the ..... day of ....., 19.... per import entry No. ....., Voucher No. .....

.....

Collector of Customs

| $1 CUSTOMS FEE STAMP. | P0.20 INTERNAL REVENUE |
|---|---|

3d Indorsement

BUREAU OF CUSTOMS.

Port of ....., 19....

Respectfully transmitted to the Insular Collector of Customs for approval and refund.

.....

Collector of Customs

Exh. "12"

B. C. FORM No. 213 Entry No. .....

The Government of the Philippine Islands

Department of Finance

BUREAU OF CUSTOMS

ENTRY OF FUEL OIL FOR USE OF STEAM VESSELS

Entry of fuel oil intended to be loaded under Customs supervision by Smith, Bell & Co., Ltd. and to be used for fuel on board the S. S. "Anking", ....., Master, a vessel propelled by steam, engaged in costwise (or foreign) trade, now in port.

| *Quantity* | *Date of Importation or Rewarehousing* | *Importing or Transporting Vessel* | *Amount of Duty* |
|---|---|---|---|
| One Hundred and Twenty (120) Tons more or less | Entry No. 47406-XI<br>Voucher No. 1593<br>Paid 14th Jan., 1933. | S. S. Pelodon<br>Reg. No. 834<br>Arrived 28th Sept., 1932. | $ ..... |

Refund of duty to be made for a/c of: SMITH, BELL & CO., LTD.

Per (Sgd.) ILLEGIBLE
Agents.

The Asiatic Petroleum Co., (P. I.) Ltd.
SMITH, BELL & CO., LTD.
Per (Sgd.) ILLEGIBLE
Agents.

I do solemnly, sincerely and truly declare that the fuel oil described above, and now at ..... ....., is intended to be used for fuel on board the above-described vessel, and is not to be relanded at any place or port within the Philippine Islands.

SMITH, BELL & CO., LTD.
Per (Sgd.) ILLEGIBLE
Agents.

Port of .....

Declared before me this 4th day of May, 1933.

(Sgd.) ILLEGIBLE
Empowered to administer oaths under
the provision of section 1147 of
the Administrative Code.

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CERTIFICATE OF IMPORTER OF FUEL OIL.

---

Port of Manila, 4th May, 1933.

I hereby certify that I have sold to Smith, Bell & Co. Ltd. for use on board the S. S. "Anking" ..... tons of fuel oil, and that said fuel oil was brought to this port in the S. S. "Pleiodon", Reg. 834, Arrived 28th Sept. 1932, and entered for duty on Entry No. 47406-XI, Voucher No. 1593, paid 14th Jan., 1933.

FOR THE ASIATIC PETROLEUM CO.
(PHILIPPINE ISLANDS) Ltd.
(Sgd.) ILLEGIBLE
Importer of Fuel Oil

---

DIRECTIONS TO SURVEYOR ON ENTRY OF FUEL OIL FOR FUEL.
PERMIT TO LOAD.

---

Port of Manila, May 4, 1933.

To the SURVEYOR OF THE PORT:

You will direct an inspector (or guard to superintend the transfer and lading of the fuel oil described in the accompanying entry on board the above-mentioned vessel, and when such lading is completed to make due return to that effect.

V. ALDANESE
Insular Collector of Customs
By (Sgd.) Illegible.

Entry No.....

ENTRY OF COAL FOR USE
ON STEAM VESSELS.

1st Indorsement

BUREAU OF CUSTOMS.

---

May 5, 1933.

I hereby certify that 104.87 long tons is the correct weight of the coal laden this date on board the S/S Anking bound for Amoy.

(Sgd.) ILLEGIBLE
(Insp.

Approved and forwarded to the Collector of Customs.

(Sgd.) MIGUEL ENRIQUEZ
Chief, Piers & Inspectors' Division.

Remarks:

| COMPUTATION. | | |
|---|---|---|
| Tons at $0.25 per ton | | |
| Less one per centum | | |
| Refund due | | |

2d Indorsement

BUREAU OF CUSTOMS.

CERTIFICATE OF REFUND ON COAL USED ON VESSELS.

Port of Manila, 19...

In pursuance of law, I hereby certify that the sum of ($.....) ..... ..... Dollars, United States currency, will be due from the Government of the Philippine Islands, payable to ..... ..... or order, on the....day of ....., 19.... for the refund of duties on ..... tons of coal taken on board the S/S ....., the duties arising from the importation of the said coal having been paid by ..... ..... on the ..... day of ....., 19.... per import entry No. ....., Voucher No. .....

.....

Collector of Customs

| $1 CUSTOMS FEE STAMP. | ₱0.20 INTERNAL REVENUE |
|---|---|

3d Indorsement

BUREAU OF CUSTOMS.

Port of ....., 19....

Respectfully transmitted to the Insular Collector of Customs for approval and refund.

.....

Collector of Customs

Exh. "13"

B. C. FORM No. 213 Entry No. .....

The Government of the Philippine Islands
Department of Finance

BUREAU OF CUSTOMS

ENTRY OF FUEL OIL FOR USE OF STEAM VESSELS

Entry of fuel oil intended to be loaded under Customs supervision by Smith, Bell & Co., Ltd. and to be used for fuel on board the S. S. "Anking", ..... Master, a vessel propelled by steam, engaged in coastwise (or foreign) trade, now in port.

| *Quantity* | *Date of Importation or Rewarehousing* | *Importing or Transporting Vessel* | *Amount of Duty* |
|---|---|---|---|
| One Hundred Twenty (120) Tons more or less | Entry No. 12761-XB<br>Voucher No. .....<br>Paid ..... | S. S. Adna<br>Reg. No. 212<br>Arrived 10/3/33 | $ ..... |

Refund of duty to be made for a/c of: SMITH, BELL & CO., LTD.
Per (Sgd.) ILLEGIBLE
Agents.

The Asiatic Petroleum Co., (P. I.) Ltd.
SMITH, BELL & CO., LTD.
Per (Sgd.) ILLEGIBLE
Agents.

I do solemnly, sincerely and truly declare that the fuel oil described above, and now at ..... ....., is intended to be used for fuel on board the above-described vessel, and is not to relanded at any place or port within the Philippine Islands.

SMITH, BELL & CO., LTD.
Per (Sgd.) ILLEGIBLE
Agents.

Port of .....

Declared before me this 15th day of May, 1933.

(Sgd.) ILLEGIBLE
Empowered to administer oahts under the provision of section 1147 of the Administrative Code.

## CERTIFICATE OF IMPORTER OF FUEL OIL.

Port of Manila, 15th May, 1933.

I hereby certify that I have sold to Smith, Bell & Co., Ltd. for use on board the S. S. Anking ..... tons of fuel oil, and that said fuel oil was brought to this port in the S. S. Adna, Reg. 212, Arrived 10th March, 1933, and entered for duty on Entry No. 12761-XB, Voucher No. ....., paid .....

FOR THE ASIATIC PETROLEUM CO. (PHILIPPINE ISLANDS) Ltd.
(Sgd.) ILLEGIBLE
Importer of Fuel Oil

## DIRECTIONS TO SURVEYOR ON ENTRY OF FUEL OIL FOR FUEL. PERMIT TO LOAD.

Port of Manila, May 15, 1933.

To the SURVEYOR OF THE PORT:

You will direct an inspector (or guard) to superintend the transfer and lading of the fuel oil described in the accompanying entry on board the above-mentioned vessel, and when such lading is completed to make due return to that effect.

V. ALDANESE
Insular Collector of Customs
By (Sgd.) Illegible.

Entry No.....

ENTRY OF COAL FOR USE
ON STEAM VESSELS.

1st Indorsement

BUREAU OF CUSTOMS.

---

May 15, 1933.

I hereby certify that Ninety-five & .40 (95.40) L. tons is the correct weight of the coal laden this date on board the S/S Anking bound for Amoy.

(Sgd.) S. PADAYAO
Insp.

Approved and forwarded to the Collector of Customs.

(Sgd.) MIGUEL ENRIQUEZ
Chief, Piers & Inspectors' Division.

Remarks:

| COMPUTATION. | | |
|---|---|---|
| ..Tons at $0.25 per ton.. | ..... | ..... |
| Less one per centum .... | ..... | ..... |
| Refund due ..... | ..... | ..... |

2d Indorsement.

BUREAU OF CUSTOMS

CERTIFICATE OF REFUND ON COAL USED
ON VESSELS.

---

Port of ....., 19...

In pursuance of law, I hereby certify that the

sum of ($.....) ..... ..... Dollars, United States currency, will be due from the Government of the Philippine Islands, payable to ..... ....., or order, on the....day of ....., 19.... for the refund of duties on ..... tons of coal taken on board the S/S ....., the duties arising from the importation of the said coal having been paid by ..... ..... on the ..... day of ....., 19.... per import entry No. ....., Voucher No. .....

.....
Collector of Customs.

| $1 CUSTOMS FEE STAMP. | ₱0.20 INTERNAL REVENUE |
|---|---|

3d Indorsement

BUREAU OF CUSTOMS.

Port of ....., 19....

Respectfully transmitted to the Insular Collector of Customs for approval and refund.

.....
Collector of Customs.

Exh. "14"

B. C. FORM No. 213 Entry No. .....

The Government of the Philippine Islands

Department of Finance

BUREAU OF CUSTOMS

## ENTRY OF FUEL OIL FOR USE OF STEAM VESSELS

Entry of fuel oil intended to be loaded under Customs supervision by Smith, Bell & Co. and to be used for fuel on board the S. S. "Anking", ....., Master, a vessel propelled by steam, engaged in coastwise (or foregin) trade, now in port.

| *Quantity* | *Date of Importation or Rewarehousing* | *Importing or Transporting Vessel* | *Amount of Duty* |
|---|---|---|---|
| One Hundred Twenty (120) Tons more or less | Entry No. 12761-XB<br>Voucher No. .....<br>.....<br>Paid ..... | S. S. Adna<br>Reg. No. 212<br>Arrived 10th March, 1933 | $ ..... |

Refund of duty to be made for a/c of: SMITH, BELL & CO., LTD.

Per (Sgd.) ILLEGIBLE

Agents.

The Asiatic Petroleum Co., (F. I.) Ltd.

SMITH, BELL & CO., LTD.

Per (Sgd.) ILLEGIBLE

Agents.

I do solemnly, sincerely and truly declare that the fuel oil described above, and now at ..... ....., is intended to be used for fuel on board the above-described vessel, and is not to be relanded at any place or port within the Philippine Islands.

SMITH, BELL & CO., LTD.
Per (Sgd.) ILLEGIBLE
Agents.

Port of .....
Declared before me this 26th day of May, 1933.

(Sgd.) ILLEGIBLE
Empowered to administer oaths under the provision of section 1147 of the Administrative Code.

---

CERTIFICATE OF IMPORTER OF FUEL OIL.

---

Port of Manila, 26th May, 1933.

I hereby certify that I have sold to Smith, Bell & Co., Ltd. for use on board the S. S. "Anking" ..... tons of fuel oil and that said fuel oil was brought to this port in the S. S. Adna, Reg. 212, Arrived 10th March 1933 and entered for duty on Entry No. 12761-XB, Voucher No. ....., paid .....

FOR THE ASIATIC PETROLEUM CO. (PHILIPPINE ISLANDS) Ltd.
(Sgd.) ILLEGIBLE
Importer of Fuel Oil

DIRECTIONS TO SURVEYOR ON ENTRY OF FUEL OIL FOR FUEL.
PERMIT TO LOAD.

Port of Manila, May 26, 1933.

To the SURVEYOR OF THE PORT:

You will direct an inspector (or guard) to superintend the transfer and lading of the fuel oil described in the accompanying entry on board the above-mentioned vessel, and when such lading is completed to make due return to that effect.

V. ALDANESE
Insular Collector of Customs
By (Sgd.) Illegible.

Entry No.....

ENTRY OF COAL FOR USE ON STEAM VESSELS.

1st Indorsement

BUREAU OF CUSTOMS.

May 26, 1933.

I hereby certify that 98.47 ton is the correct weight of the coal laden this date on board the S/S Anking bound for Amoy, China.

(Sgd.) F. RIVERA
Insp.

Approved and forwarded to the Collector of Customs.

(Sgd.) MIGUEL ENRIQUEZ
Chief, Piers & Inspectors' Division.

Remarks:

| COMPUTATION. | | |
|---|---|---|
| ..Tons at $0.25 per ton.. | ..... | ..... |
| Less one per centum .... | ..... | ..... |
| Refund due ..... | ..... | ..... |

2d Indorsement.

BUREAU OF CUSTOMS.

CERTIFICATE OF REFUND ON COAL USED ON VESSELS

Port of .. .... .. .. 19..

In pursuance of law, I hereby certify that the sum of ($.....) ..... ..... Dollars, United States currency, will be due from the Government of the Philippine Islands, payable to ....., ....., or order, on the....day of ....., 19.... for the refund of duties on ..... tons of coal taken on board the S/S ....., the duties arising from the importation of the said coal having been paid by ..... ..... on the ..... day of ....., 19.... per import entry No. ....., Voucher No. .....

.....

Collector of Customs.

$1 CUSTOMS FEE STAMP.

P0.20 INTERNAL REVENUE

3d Indorsement

BUREAU OF CUSTOMS.

Port of ....., 19....

Respectfully transmitted to the Insular Collector of Customs for approval and refund.

.....

Collector of Customs.

Exh. "15"

B. C. FORM No. 213 Entry No. 786

The Government of the Philippine Islands

Department of Finance

BUREAU OF CUSTOMS

ENTRY OF FUEL OIL FOR USE OF STEAM VESSELS

Entry of fuel oil intended to be loaded under Customs supervision by Smith, Bell & Co. and to be used for fuel on board the S. S. "Anking", ..... ....., Master, a vessel propelled by steam, engaged i ncoastwise (or foregin) trade, now in port.

| *Quantity* | *Date of Importation or Rewarehousing* | *Importing or Transporting Vessel* | *Amount of Duty* |
|---|---|---|---|
| One Hundred and Twenty (120) Tons more or less | Entry No. 12761-XC Voucher No. 22113 Paid 6/16/33 | S. S. Adna Reg. No. 212 Arrived 10th March, 1933, | $ ..... |

Refund of duty to be made for a/c of: SMITH, BELL & CO., LTD.
Per (Sgd.) ILLEGIBLE
Agents.

The Asiatic Petroleum Co., (P. I.) Ltd.
SMITH, BELL & CO., LTD.
Per (Sgd.) ILLEGIBLE
Agents.

I do solemnly, sincerely and truly declare that the fuel oil described above, and now at ..... ....., is intended to be used for fuel on board the above-described vessel, and is not to be relanded at any place or port within the Philippine Islands.

SMITH, BELL & CO., LTD.
Per (Sgd.) ILLEGIBLE
Agents.
Port of Manila.

Declared before me this 3rd day of June, 1933.

(Sgd.) ILLEGIBLE
Empowered to administer oaths under the provision of section 1147 of the Administrative Code.

## CERTIFICATE OF IMPORTER OF FUEL OIL.

Port of Manila, 3rd June, 1933.

I hereby certify that I have sold to Smith, Bell & Co. for use on board the S. S. "Anking" 109,240 kilos of fuel oil and that said fuel oil was brought to this port in the S.S. Adna, Reg. 212, Arrived 10th March, 1933 and entered for duty on Entry No. 12761-XC, Voucher No. ....., paid .....

FOR THE ASIATIC PETROLEUM CO. (PHILIPPINE ISLANDS) Ltd.

(Sgd.) ILLEGIBLE
Importer of Fuel Oil

## DIRECTIONS TO SURVEYOR ON ENTRY OF FUEL OIL FOR FUEL. PERMIT TO LOAD.

Port of Manila, June 3, 1933.

To the SURVEYOR OF THE PORT:

You will direct an inspector (or guard) to superintend the transfer and lading of the fuel oil described in the accompanying entry on board the above-mentioned vessel, and when such lading is completed to make due return to that effect.

V. ALDANESE
Insular Collector of Customs
By (Sgd.) Illegible.

Entry No. 786

ENTRY OF FUEL OIL FOR USE
ON STEAM VESSELS.

1st Indorsement
BUREAU OF CUSTOMS.

June 3, 1933.

I hereby certify that One hundred nine & 24/100 tons 109,240 kilos is the correct weight of the coal laden this date on board the S/S Anking bound for Amoy.

(Sgd.) ILLEGIBLE
Insp.

Approved and forwarded to the Collector of Customs.

(Sgd.) MIGUEL ENRIQUEZ
Chief, Piers & Inspectors' Division.

Remarks:

| COMPUTATION. | | |
|---|---|---|
| ..Tons at $0.25 per ton.. | ..... | ..... |
| Less one per centum .... | ..... | ..... |
| Refund due ..... | ..... | ..... |

2d Indorsement
BUREAU OF CUSTOMS.
CERTIFICATE OF REFUND ON COAL USED
ON VESSELS.

Port of Manila, July 1, 1933.

In pursuance of law, I hereby certify that the

sum of ($270.37) Two Hundred seventy & 37/100 Dollars, United States currency, will be due from the Government of the Philippine Islands, payable to The Asiatic Pet. Co. (P. I.) Ltd. or order, on the 3rd day of July, 1933, for the refund of duties on 109, 240 kos. of fuel oil taken on board the S/S Anking, the duties arising from the importation of the said fuel oil having been paid by The Asiatic Pet. Co. (P. I.) Ltd. on the 16th day of June, 1933, per import entry No. 12761-XC, Voucher No. 22113.

.....

Collector of Customs.

1 CUSTOMS FEE STAMP.

$0.20 INTERNAL REVENUE

3d Indorsement

BUREAU OF CUSTOMS.

Port of ...M....., 19...

Respectfully transmitted to the Insular Collector of Customs for approval and refund.

.....

Collector of Customs.

Exh. "16"

B. C. FORM No. 213 Entry No. 914

The Government of the Philippine Islands

Department of Finance

BUREAU OF CUSTOMS

## ENTRY OF FUEL OIL FOR USE OF STEAM VESSELS

Entry of fuel oil intended to be loaded under Customs supervision by Smith, Bell & Co. and to be used for fuel on board the S. S. "Anking", ..... ....., Master, a vessel propelled by steam, engaged in costwise (or foreign) trade, now in port.

| *Quantity* | *Date of Importation or Rewarehousing* | *Importing or Transporting Vessel* | *Amount of Duty* |
|---|---|---|---|
| One Hundred Twenty (120) Tons more or less | Entry No. 12761-XD Voucher No. 22112 Paid 6/16/33 | S. S. Adna Reg. No. 212 Arrived 10th March, 1933. | $ ..... |

Refund of duty to be made for a/c of: SMITH, BELL & CO., LTD.
Per (Sgd.) ILLEGIBLE
Agents.

The Asiatic Petroleum Co., (P. I.) Ltd.
SMITH, BELL & CO., LTD.
Per (Sgd.) ILLEGIBLE
Agents.

I do solemnly, sincerely and truly declare that the fuel oil described above, and now at ..... ....., is intended to be used for fuel on board the above-described vessel, and is not to be relanded at any place or port within the Philippine Islands

SMITH, BELL & CO., LTD.
Per (Sgd.) ILLEGIBLE
Agents.

Port of .....

Declared before me this 16th day of June, 1933.

(Sgd.) ILLEGIBLE
Empowered to administer oaths under
the provision of section 1147 of
the Administrative Code.

---

CERTIFICATE OF IMPORTER OF FUEL OIL.

---

Port of Manila, 16th June, 1933.

I hereby certify that I have sold to Smith, Bell & Co. for use on board the S. S. "Anking" 121,270 kilos of fuel oil and that said fuel oil was brought to this port in the S. S. Adna, Reg. 212, Arrived 10th March, 1933 and entered for duty on Entry No. 12761-XD, Voucher No. ....., paid .....

FOR THE ASIATIC PETROLEUM CO.
(PHILIPPINE ISLANDS) Ltd.

(Sgd.) ILLEGIBLE
Importer of Fuel Oil

---

DIRECTIONS TO SURVEYOR ON ENTRY OF
FUEL OIL FOR FUEL.
PERMIT TO LOAD.

---

Port of Manila, June 16, 1933.

To the SURVEYOR OF THE PORT:

You will direct an inspector (or guard to superintend the transfer and lading of the fuel oil described in the accompanying entry on board the above-mentioned vessel, and when such lading is completed to make due return to that effect.

V. ALDANESE
Insular Collector of Customs

By (Sgd.) Illegible.

---

ENTRY No. 914

ENTRY OF FUEL OIL FOR USE ON STEAM VESSELS.

1st Indorsement

BUREAU OF CUSTOMS.

---

June 17, 1933.

I hereby certify that 121,270 kos. 121.27 tons is the correct weight of the coal laden this date on board the S/S Anking bound for Amoy.

(Sgd.) ILLEGIBLE
Insp.

Approved and forwarded to the Collector of Customs.

(Sgd.) MIGUEL ENRIQUEZ
Chief, Piers & Inspectors' Division.

Remarks:

| COMPUTATION. | | |
|---|---|---|
| ..Tons at $0.25 per ton.. | ..... | ..... |
| Less one per centum .... | ..... | ..... |
| Refund due ..... | ..... | ..... |

2d Indorsement

BUREAU OF CUSTOMS.

CERTIFICATE OF REFUND ON COAL USED ON VESSELS.

Port of Manila, Aug. 1, 1933.

In pursuance of law, I hereby certify that the sum of ($300.15) Three hundred & 15/100 Dollars, United States currency, will be due from the Government of the Philippine Islands, payable to The Asiatic Pet. Co. (P. I.) Ltd. or order, on the 17th day of July, 1933, for the refund of duties on 121,270 kos. of fuel oil taken on board the S/S Anking, the duties arising from the importation of the said fuel oil having been paid by The Asiatic Petroleum Co. (P. I.) Ltd. on the 16 day of June, 1933, per import entry No. 12761-XB, Voucher No. 22112.

.....

Collector of Customs.

1 CUSTOMS FEE STAMP.

₱0.20 INTERNAL REVENUE

3d Indorsement
BUREAU OF CUSTOMS.

Port of ....., 19 ...
Resfectfully transmitted to the Insular Collector of Customs for approval and refund.

.....
Collector of Customs.

Exh. "17"

B. C. FORM No. 213 Entry No. .....

The Government of the Philippine Islands
Department of Finance
BUREAU OF CUSTOMS

ENTRY OF FUEL OIL FOR USE OF STEAM VESSELS

Entry of fuel oil intended to be loaded under Customs supervision by L. Everett Inc. and to be used for fuel on board the S. S. "Fernwood", ..... ....., Master, a vessel propelled by steam, engaged in coastwise (or foreign) trade, now in port.

| *Quantity* | *Date of Importation or Rewarehousing* | *Importing or Transporting Vessel* | *Amount of Duty* |
|---|---|---|---|
| Twenty (20) Tons more or less | Entry No. 47406-XH<br>Voucher No. 633<br>Paid 7/1/33 | S. S. "Pleiodon"<br>Reg No. 834<br>Arrived 28/9/32 | $ ..... |

Refund of duty to be made for a/c of: L. EVERETT, Incorporated
By (Sgd.) ILLEGIBLE
Agent.

The Asiatic Petroleum Co., (P. I.) Ltd.
L. EVERETT, Incorporated
By (Sgd.) Illegible
Agents.

I do solemnly, sincerely and truly declare that the fuel oil described above, and now at ..... ....., is intended to be used for fuel on board the above-described vessel, and is not to be relanded at any place or port within the Philippine Islands.

L. EVERETT, Incorporated
(Sgd.) Illegible
Port of Manila.

Declared before me this 22 day of April, 1933.

(Sgd.) ILLEGIBLE
Empowered to administer oaths under the provision of section 1147 of the Administrative Code.

---

CERTIFICATE OF IMPORTER OF FUEL OIL.

---

Port of Manila, 22nd April, 1933.

I hereby certify that I have sold to L. Everett, Inc. for use on board the S. S. "Fernwood" ..... ..... tons of fuel oil and that said fuel oil was

brought to this port in the S. S. "Pleiodon", Reg. 834, Arrived 28th September, 1932, and entered for duty on Entry No. 47406-XH, Voucher No. 633, paid 7th January, 1933.

FOR THE ASIATIC PETROLEUM CO. (PHILIPPINE ISLANDS) Ltd.
(Sgd.) ILLEGIBLE
Importer of Fuel Oil

---

DIRECTIONS TO SURVEYOR ON ENTRY OF FUEL OIL FOR FUEL.
PERMIT TO LOAD.

---

Port of Manila, April 22, 1933.

To the SURVEYOR OF THE PORT:

You will direct an inspector (or guard to superintend the transfer and lading of the fuel oil described in the accompanying entry on board the above-mentioned vessel, and when such lading is completed to make due return to that effect.

V. ALDANESE
Insular Collector of Customs
By (Sgd.) Illegible.

---

Entry No.....
ENTRY OF COAL FOR USE ON STEAM VESSELS.
1st Indorsement
BUREAU OF CUSTOMS.

---

Manila, P. I., April 22, 1933.

I hereby certify that 20.39 Long tons is the correct weight of the coal laden this date on board the S/S "Fernwood bound for Foreign port.

(Sgd.) ILLEGIBLE
Insp.

Approved and forwarded to the Collector of Customs.

(Sgd.) MIGUEL ENRIQUEZ
Chief, Piers & Inspectors' Division.

Remarks:

| COMPUTATION. | | |
|---|---|---|
| Tons at $0.25 per ton | ..... | ..... |
| Less one per centum .... | ..... | ..... |
| Refund due ..... | ..... | ..... |

2d Indorsement.

BUREAU OF CUSTOMS.

CERTIFICATE OF REFUND ON COAL USED ON VESSELS

Port of Manila, 19....

In pursuance of law, I hereby certify that the sum of ($.....) ..... ..... Dollars, United States currency, will be due from the Government of the Philippine Islands, payable to ..... ....., or order, on the....day of ....., 19.... for the

refund of duties on ..... tons of coal taken on board the S/S ....., the duties arising from the importation of the said coal having been paid by ..... ..... on the ..... day of ....., 19.... per import entry No. ....., Voucher No. .....

.....
Collector of Customs.

$1 CUSTOM FEE STAMP.

₱0.20 INTERNAL REVENUE

3d Indorsement

BUREAU OF CUSTOMS.

Port of ....., 19....

Respectfully transmitted to the Insular Collector of Customs for approval and refund.

.....
Collector of Customs.

Exh. "18"

B. C. FORM No. 213 Entry No. .....

The Government of the Philippine Islands

Department of Finance

BUREAU OF CUSTOMS

ENTRY OF FUEL OIL FOR USE OF STEAM VESSELS

Entry of fuel oil intended to be loaded under Customs supervision by L. Everett Inc. and to be used for fuel on board the S. S. "STANFORD", ..... , Master, a vessel propelled by steam, engaged in coastwise (or foreign) trade, now in port.

| *Quantity* | *Date of Importation or Rewarehousing* | *Importing or Transporting Vessel* | *Amount of Duty* |
|---|---|---|---|
| Thirty (30) Tons more or less | Entry No. 47406-XH<br>Voucher No. 633<br>Paid 7/1/33 | S. S. "Pleiodon"<br>Reg. No. 834<br>Arrived 28/9/32 | $ ..... |

Refund of duty to be made for a/c of: L. EVERETT, Incorporated

By (Sgd.) ILLEGIBLE

Agent.

The Asiatic Petroleum Co., (P. I.) Ltd.

L. EVERETT, Incorporated

(Sgd.) Illegible

Agents.

I do selemnly, sincerely and truly declare that the fuel oil described above, and now at ..... , is intended to be used for fuel on board the above-described vessel, and is not to be relanded at any place or port within the Philippine Islands.

L. EVERETT, Incorporated

(Sgd.) Illegible

Agent.

Port of Manila.

Declared before me this 29 day of April, 1933.

(Sgd.) ILLEGIBLE
Empowered to administer oahts under
the provision of section 1147 of
the Administrative Code.

---

CERTIFICATE OF IMPORTER OF FUEL OIL.

---

Port of Manila, 28th April, 1933.

I hereby certify that I have sold to L. Everett, Inc. for use on board the S. S. "STANFORD" ... ....., tons of fuel oil, and that said fuel oil was brought to this port in the S. S. "Pleiodon", Reg. 834, Arrived 28th September, 1932, and entered for duty on Entry No. 47406-XH, Voucher No. 633, paid 7th January, 1933.

FOR THE ASIATIC PETROLEUM CO.
(PHILIPPINE ISLANDS) Ltd.

(Sgd.) ILLEGIBLE
Importer of Fuel Oil

---

DIRECTIONS TO SURVEYOR ON ENTRY OF FUEL OIL FOR FUEL.
PERMIT TO LOAD.

---

Port of Manila, April 29, 1933.

To the SURVEYOR OF THE PORT:

You will direct an inspector (or guard) to superintend the transfer and lading of the fuel oil described in the accompanying entry on board the

above-mentioned vessel, and when such lading is completed to make due return to that effect.

V. ALDANESE
Insular Collector of Customs
By (Sgd.) Illegible.

Entry No.....

ENTRY ON COAL FOR USE ON STEAM VESSELS.

1st Indorsement

BUREAU OF CUSTOMS.

April 29, 1933.

I hereby certify that 29.08 Long tons is the correct weight of the coal laden this date on board the S/S Stanford bound for Atlantic ports.

(Sgd.) ILLEGIBLE
Insp.

Approved and forwarded to the Collector of Customs.

(Sgd.) MIGUEL ENRIQUEZ
Chief, Piers & Inspector' Division.

Remarks:

| COMPUTATION. | | |
|---|---|---|
| ..Tons at $0.25 per ton.. | ..... | ..... |
| Less one per centum .... | ..... | ..... |
| Refund due ..... | ..... | ..... |

2d Indorsement.

BUREAU OF CUSTOMS.

CERTIFICATE OF REFUND ON COAL USED

Port of Manila, 19....

In pursuance of law, I hereby certify that the sum of ($.....) ..... ..... Dollars, United States currency, will be due from the Government of the Philippine Islands, payable to ..... ....., or order, on the....day of ....., 19.... for the refund of duties on ..... tons of coal taken on board the S/S ....., the duties arising from the importation of the said coal having been paid by ..... ..... on the ..... day of ....., 19.... per import entry No. ....., Voucher No. .....

.....

Collector of Customs.

$1 CUSTOMS FEE STAMP.

₱0.20 INTERNAL REVENUE

3d Indorsement

BUREAU OF CUSTOMS.

Port of ....., 19....

Respectfully transmitted to the Insular Col-

lector of Customs for approval and refund.

.....

Colector of Customs.

Exh. "19"

B. C. FORM No. 213 Entry No. .....

The Government of the Philippine Islands
Department of Finance

BUREAU OF CUSTOMS

ENTRY OF FUEL OIL FOR USE OF STEAM VESSELS

Entry of fuel oil intended to be loaded under Customs supervision by G. S. Yuill & Co., and to be used for fuel on board the S. S. "Taiping", ..... ....., Master, a vessel propelled by steam, engaged in coastwise (or foreign) trade, now in port.

| *Quantity* | *Date of Importation or Rewarehousing* | *Importing or Transporting Vessel* | *Amount of Duty* |
|---|---|---|---|
| One Hundred and ten (110) Tons more or less | Entry No. 12761-XB<br>Voucher No. .....<br>Paid ..... | S. S. Adna<br>Reg. No. 212<br>Arrived 10/3/33 | $ ..... |

Refund of duty to be made for a/c of: AUSTRALIAN-ORIENTAL LINE LTD.

For G. S. Yuill & Co., Ltd.
(Sgd.) Illegible.
Agents.

The Asiatic Petroleum Co., (P. I.) Ltd..
AUSTRALIAN-ORIENTAL LINE LTD.
For G. S. Yuill & Co., Ltd., Agents.
(Sgd.) Illegible.

I do solemnly, sincerely and truly declare that the fuel oil described above, and now at ..... ....., is intended to be used for fuel on board the above-described vessel, and is not to be relanded at any place or port within the Philippine Islands.

AUSTRALIAN-ORIENTAL LINE LTD.
For G. S. YUILL & CO., LTD., Agents.
(Sgd.) Illegible

Port of .....

Declared before me this 20th day of May, 1933.

(Sgd.) ILLEGIBLE
Empowered to administer oahts under the provision of section 1147 of the Administrative Code.

---

CERTIFICATE OF IMPORTER OF FUEL OIL.

---

Port of Manila, 20th May, 1933.

I hereby certify that I have sold to Messrs. G. S. Yuill & Co. for use on board the S. S. 'Talping" ..... tons of fuel oil, and that said fuel

oil was brought to this port in the S. S. Adna, Reg. 212, Arrived 10th March, 1933, and entered for duty on Entry No. 12761-XB, Voucher No. ....., paid .....

FOR THE ASIATIC PETROLEUM CO. (PHILIPPINE ISLANDS) Ltd.

(Sgd.) ILLEGIBLE
Importer of Fuel Oil

---

DIRECTIONS TO SURVEYOR ON ENTRY OF FUEL OIL FOR FUEL.
PERMIT TO LOAD.

Port of Manila, May 20, 1933.

To the SURVEYOR OF THE PORT:

You will direct an inspector (or guard) to superintend the transfer and lading of the fuel oil described in the accompanying entry on board the above-mentioned vessel, and when such lading is completed to make due return to that effect.

(Sgd.) ILLEGIBLE
Collector of Customs

Entry No. .....

ENTRY ON COAL FOR USE ON STEAM VESSELS.

1st Indorsement

BUREAU OF CUSTOMS.

---

May 22, 1933.

I hereby certify that 114.89 tons is the correct weight of the coal laden this date on board the S/S "Taiping" bound for Australian ports.

(Sgd.) ILLEGIBLE
Insp.

Approved and forwarded to the Collector of Customs.

(Sgd.) MIGUEL ENRIQUEZ
Chief, Piers & Inspectors' Division.

Remarks:

| COMPUTATION. | | |
|---|---|---|
| ..Tons at $0.25 per ton.. | ..... | ..... |
| Less one per centum .... | ..... | ..... |
| Refund due ..... | ..... | ..... |

2d Indorsement.

BUREAU OF CUSTOMS.
CERTIFICATE OF REFUND ON COAL USED

Port of Manila, 19....

In pursuance of law, I hereby certify that the sum of ($.....) ..... ..... Dollars, United States currency, will be due from the Government of the Philippine Islands, payable to ....., or order, on the....day of ....., 19.... for the refund of duties on ..... tons of coal taken

on board the S/S .....,
the duties arising from the importation of the said coal having been paid by .....
..... on the ..... day of
....., 19.... per import entry No. ....., Voucher No. .....

.....
Collector of Customs.

| $1 CUSTOMS FEE STAMP. | ₱0.20 INTERNAL REVENUE |
|---|---|

3d Indorsement

BUREAU OF CUSTOMS.

Port of ....., 19....

Respectfully transmitted to the Insular Collector of Customs for approval and refund.

.....
Collector of Customs.

"Exh. "20"

B. C. FORM No. 213 Entry No. .....

The Government of the Philippine Islands
Department of Finance
BUREAU OF CUSTOMS

ENTRY OF FUEL OIL FOR USE OF STEAM VESSELS

Entry of fuel oil intended to be loaded under Customs supervision by Messrs. G. S. Yuill & Co. and to be used for fuel on board the S. S. "Changte", ....., Master, a vessel propelled by steam, engaged in costwise (or foreign) trade, now in port.

| *Quantity* | *Date of Importation or Rewarehousing* | *Importing or Transporting Vessel* | *Amount of Duty* |
|---|---|---|---|
| One Hundred (100) Tons more or less | Entry No. 18677-XB<br>Voucher No. .....<br>Paid ..... | S. S. Iris<br>Reg. No. 240<br>Arrived 15th April, 1933. | $ ..... |

Refund of duty to be made for a /c of:

AUSTRALIAN-ORIENTAL LINE LTD.

For G. S. Yuill & Co., Ltd., Agents.

(Sgd.) Illegible

The Asiatic Petroleum Co., (P. I.) Ltd.

AUSTRALIAN-ORIENTAL LINE LTD.

For G. S. Yuill & Co., Ltd., Agents

(Sgd.) Illegible

I do solemnly, sincerely and truly declare that the fuel oil described above, and now at ..... ....., is intended to be used for fuel on board the above-described vessel, and is not to be relanded at any place or port within the Philippine Islands.

AUSTRALIAN-ORIENTAL LINE LTD.

For G. S. Yuill & Co., Ltd., Agents.

(Sgd.) Illegible

Port of .....
Declared before me this 22 day of June, 1933.
(Sgd.) ILLEGIBLE
Empowered to administer oaths under the provision of section 1147 of the Administrative Code.

---

CERTIFICATE OF IMPORTER OF FUEL OIL.

---

Port of Manila, 22nd June, 1933.

I hereby certify that I have sold to Messrs. G. S. Yuill & Co. for use on board the S. S. "Changte" ..... tons of fuel oil and that said fuel oil was brought to this port in the S. S. Iris, Reg. 340, Arrived 15th April, 1933, and entered for duty on Entry No. 18677-XB, Voucher No. ....., paid .....

FOR THE ASIATIC PETROLEUM CO. (PHILIPPINE ISLANDS) Ltd.
(Sgd.) ILLEGIBLE
Importer of Fuel Oil

---

DIRECTIONS TO SURVEYOR ON ENTRY OF FUEL OIL FOR FUEL. PERMIT TO LOAD.

---

Port of Manila, June 22, 1933.

To the SURVEYOR OF THE PORT:

You will direct an inspector (or guard) to superintend the transfer and lading of the fuel oil

described in the accompanying entry on board the above-mentioned vessel, and when such lading is completed to make due return to that effect.

V. ALDANESE
Insular Collector of Customs
By (Sgd.) Illegible.

Entry No. .....

ENTRY ON COAL FOR USE ON STEAM VESSELS.

1st Indorsement

BUREAU OF CUSTOMS.

---

Manila, June 23, 1933.

I hereby certify that 95.35 tons is the correct weight of the coal laden this date on board S/S Changte bound for Australia.

(Sgd.) M. LOPEZ
Insp.

Approved and forwarded to the Collector of Customs.

(Sgd.) MIGUEL ENRIQUEZ
Chief, Piers & Inspector' Division.

Remarks:

| COMPUTATION. | | |
|---|---|---|
| ..Tons at $0.25 per ton.. | ..... | ..... |
| Less one per centum .... | ..... | ..... |
| Refund due ..... | ..... | ..... |

2d Indorsement.

BUREAU OF CUSTOMS.

CERTIFICATE OF REFUND ON COAL USED

Port of Manila, 19....

In pursuance of law, I hereby certify that the sum of ($.....) ..... ..... Dollars, United States currency, will be due from the Government of the Philippine Islands, payable to ....., or order, on the....day of ....., 19.... for the refund of duties on ..... tons of coal taken on board the S/S ....., the duties arising from the importation of the said coal having been paid by ..... on the ..... day of ....., 19.... per import entry No. ....., Voucher No. .....

.....

Collector of Customs.

$1 CUSTOMS FEE STAMP.

₱0.20 INTERNAL REVENUE

3d Indorsement

BUREAU OF CUSTOMS.

Port of ....., 19....

Respectfully transmitted to the Insular Col-

lector of Customs for approval and refund.

.....

Collector of Customs.

Exh. "21"

B. C. FORM No. 218 Entry No. 1225

The Government of the Philippine Islands

Department of Finance

BUREAU OF CUSTOMS

## ENTRY OF FUEL OIL FOR USE OF STEAM VESSELS

Entry of fuel oil intended to be loaded under Customs supervision by Compania General de Tabacos de Filipinas and to be used for fuel on board the S. S. "Peter Maersk", ....., Master, a vessel propelled by steam, engaged in costwise (or foreign) trade, now in port.

| *Quantity* | *Date of Importation or Rewarehousing* | *Importing or Transporting Vessel* | *Amount of Duty* |
|---|---|---|---|
| One Hundred (100) Tons (101600) Kos more or less | Entry No. 32101-XD<br>Voucher No. 36775<br>Paid 3/9/32 | S. S. "Aletta"<br>Reg. No. 569<br>Arrived 30/6/32 | $ ..... |

Refund of duty to be made for a /c of:

FOR CIA. GRAL. DE TABACOS DE FIIIPINAS

(Sgd.) ILLEGIBLE

Agents.

Maersk Line.

The Asiatic Petroleum Co., (P. I.) Ltd.
FOR CIA. GRAL. DE TABACOS DE FILIPINAS
(Sgd.) ILLEGIBLE
Agents
Maersk Line.

I do solemnly, sincerely and truly declare that the fuel oil described above, and now at ..... .....,is intended to be used for fuel on board the above-described vessel, and is not to be relanded at any place or port within the Philippine Islands.

FOR CIA. GRAL DE TABACOS DE FILIPINAS
(Sgd.) ILLEGIBLE
Agents
Maersk Line
Port of Manila.

Declared before me this 5th day of November 1932.

(Sgd.) ILLEGIBLE
Empowered to administer oaths under the provision of section 1147 of the Administrative Code.

---

CERTIFICATE OF IMPORTER OF FUEL OIL.

---

Port of Manila, 5th November, 1932

I hereby certify that I have sold to Compania General de Tabacos de Filipinas for use on board the S. S. "Peter Maersk" (99,400) Kos. of fuel oil, and that said fuel oil was brought to this port in

the S. S. "Aletta", Reg. 659, Arrived 30/6/32 and entered for duty Entry No. 32101-XD, Voucher No. 36775, paid 3/9/32.

FOR THE ASIATIC PETROLEUM CO.,
(PHILIPPINE ISLANDS)

(Sgd.) ILLEGIBLE
Importer of Fuel Oil.

---

DIRECTIONS TO SURVEYOR ON ENTRY OF FUEL OIL FOR FUEL.
PERMIT TO LOAD.

---

Port of Manila, November 5, 1932.

To the SURVEYOR OF THE PORT:

You will direct an inspector (or guard) to superintend the transfer and lading of the fuel oil described in the accompanying entry on board the above-mentioned vessel, and when such lading is completed to make due return to that effect.

V. ALDANESE
Insular Collector of Customs
By (Sgd.) Illegible.

Entry No. 1225

ENTRY ON COAL FOR USE ON STEAM VESSELS.

1st Indorsement

BUREAU OF CUSTOMS.

---

Nov. 7, 1932.

I hereby certify that 99.40 tons (99,400) kilos is the correct weight of the Fuel Oil laden this date on board the S/S Peter Maersk bound for New York via Cebu & Iloilo.

(Sgd.) ILLEGIBLE
Insp.

Approved and forwarded to the Collector of Customs.

(Sgd.) MIGUEL ENRIQUEZ
Chief Piers & Inspectors' Division.

Remarks:

| COMPUTATION. | | |
|---|---|---|
| ..Tons at $0.25 per ton.. | ..... | ..... |
| Less one per centum .... | ..... | ..... |
| Refund due ..... | ..... | ..... |

2d Indorsement

BUREAU OF CUSTOMS.
CERTIFICATE OF REFUND OF FUEL OIL USED ON VESSELS.

Port of Manila, Dec. 1, 1932.

In pursuance of law, I hereby certify that the sum of ($246.01) Two hundred forty-six & 01/100 Dollars, United States currency, will be due from the Government of the Philippine Islands, payable to The Asiatic Pet. Co. (P. I.) Ltd. or order, on the

7th day of Dec., 1932, for the refund of duties on 99,400 Kos. of Fuel Oil taken on board the S/S Peter Maersk, the duties arising from the importation of the said fuel Oil having been paid by The Asiatic Pet. Co. (P. I.) Ltd. on the 3rd day of Sept., 1932, per import entry No. 32101-XD, Voucher No. 36775.

.....

Collector of Customs.

| 1 CUSTOMS FEE STAMP. | P0.20 INTERNAL REVENUE |
|---|---|

3d Indorsement

BUREAU OF CUSTOMS.

---

Port of ....., 19....

Respectfully transmitted to the Insular Collector of Customs for approval and refund.

.....

Collector of Customs.

---

Exh. "22"

The Government of the Philippine Islands

Department of Finance

BUREAU OF CUSTOMS

Manila

August 3, 1933

The Asiatic Petroleum Co., (P. I.) Ltd.

Hongkong & Shanghai Banking Corp. Bldg.

Manila

Gentlemen:

There are returned herewith twenty (20) entries on fuel oil used for the propulsion of s/s "Saporea", "Anglo-Swede", "Fernwood", "Taiping", "Anking", "Lindenbank", "Stanford", "Peter Maersk", "Austvard", "Changte", "Somerville" and "Anna Maersk", with the information that the same can not be approved for the reason that in accordance with an opinion rendered by the Honorable, The Secretary of Justice, on July 28, 1933, drawback of customs duties on imported fuel oil can only be allowed when such fuel is used for the propulsion of vessels of Philippine registry, under the provisions of section 21 of the Philippine Tariff Act of 1909.

Respectfully,

(Sgd.) V. ALDANESE
Insular Collector of Customs.

On February 23, 1934, the Court rendered the following decision:

(CAPTION AND TITLE OMITTED

DECISION

This is an application for a writ of mandamus commanding the Insular Collector of Customs to liquidate the drawback entries filed by the herein petitioner and to issue the necessary warrants for the refund to it of the import duties paid by said petitioner on certain quantities of imported fuel

oil, as to which it had presented the drawback entries above mentioned, less one per cent (1%) of said duties.

The cause was submitted by the parties for the judgment of the Court upon a stipulation of facts. From this and the other documentary evidence of record it appears that the petitioner, a corporation duly registered and authorized to do business in the Philippine Islands, has imported big quantities of fuel oil. Onvarious dates in the years 1932 and 1933 the petitioner loaded in the fuel tank of the steamships SAPAROEA, ANGLO-SWEDE, PETER MAERSK, ANNA MAERSK, SOMERVILLE, LINDENBANK, ANKING, FERNWOOD, STANFORD, TAIPING, and CHANGTE, all of foreign registry, but engaged in trade between the Philippine Islands and foreign countries, various quantities of fuel oil and paid to the respondent the corresponding import duties. Later the petitioner filed with the respondent the drawback entries exhibits 1 to 21 with respect to said fuel oil, in order to secure a refund of the import duties levied thereonK less one per cent (1%), in accordance with section 21 of the Tariff law of 1909. The respondent refused to liquidate said drawback entries, alleging that, inasmuch as the ships on which said fuel oil had been loaded were of foreign registry, the petitioner was not entitled to a refund of the duties in question.

The question therefore arising in this proceed-

ing narrows down to whether vessels of foreign registry engaged in trade between the Philippine Islands and foreign countries are entitled to a refund of import duties levied on fuel used in the propulsion of said vessels, in accordance with section 21 of the Tariff Law of 1909.

Section 21 of the Philippine Tariff Law of 1909 provides:

> "SEC. 21. That on all fuel imported into the Philippine Islands which is afterwards used for the propulsion of vessels engaged in trade with foreign countries, or between ports of the United States and the Philippine Islands, or in the Philippine coastwise trade, a refund shall be allowed equal to the duty imposed by law upon such fuel, less one per centum thereof, which shall be paid under such rules and regulations as may be prescribed by the Insular Collector of Customs."

The above quoted provisions of law are not explicit as to whether the phrase "vessels engaged in trade with foreign countries" therein employed includes or not vessels of foreign registry engaged in trade between the Philippines and foreign countries, as were the vessels on board of which was loaded the fuel oil in question.

However, a careful examination of the wording of said legal provisions is sufficient to convince the mind that the phrase "vessels engaged in trade

with foreign countries" includes vessels of Philippine registry only. It will be noted that the law uses the word "with" between the words "trade" and "foreign countries." This preposition necessarily requires a substantive complement representing something of local character. In other words, although the wording of the law does not so state, the legislator's intension is obvious that between the words "vessels" and "engaged" the phrase "of Philippine registry" should be understood as inserted. If the intention were that the phrase "of Philiplippine and foreign registry" should be understood as inserted between said words, the law would not have used the preposition "with" between the words "trade" and "foreign countries" and in its place would have used the preposition "between" followed by the word "Philippines."

Moreover, it is a well settled principle of law that in the interpretation of drawback provisions of tariff laws, the object of the law should always be kept in mind (Tide Water Oil. Co. vs. United States, 171 U. S. 210, 219), and that where the privilege of drawback is granted, any doubt should be resolved in favor of the Government and against the party claiming it (Swan & Finch Co. vs. United States, 190 U. S. 143; Hannibal, etc, Railroad Co. *vs.* Packet Co., 125 U. S. 260)

Inasmuch as Section 21 above quoted, of the Tariff Law of the Philippines, relates to drawback of import duties, following the rules of statutory

construction above mentioned, the only interpretation that could be given to its provisions— bearing in mind the primordial purpose of Congress in enacting for the Philippines said Tariff Law, namely to protect the industry, agriculture and commerce of this country—is that they exclude vessels of foreign registry from the benefits of drawback therein provided for. A contrary interpretation would defeat the purpose of the law.

Wherefore, the Court denies the petition herein presented, with costs against the petitioner.

It is so ordered.

Manila, P. I., February 23, 1934.

(Sgd.) EMILIO MAPA,
Judge.

On February 24, 1934, plaintiff received notice e foregoing decision and on March 12, 1934 the following exception and motion for new

(CAPTION AND TITLE OMITTED)

"EXCEPTION AND MOTION FOR NEW TRIAL

Comes now the plaintiff, by its undersigned attorneys, and respectfully excepts to the decision rendered by this Honorable Court on February 23, 1934, notice of which was received on February 24, 1934, and moves that the same be set aside and that a new trial of this case be granted, upon the following grounds, to wit:

1. That the evidence does not justify the decision; and

2. That the decision is contrary to law.

Manila, P. I., March 12, 1934.

ROSS, LAWRENCE & SELPH

By (Sgd.) ROBERT JANDA
Attorneys for Plaintiff,
414 National City Bank Bldg.,
Manila."

On March 17, 1934, the Court denied plaintiff's motion for new trial, to which plaintiff excepted and filed on March 20, 1934 notice of its intention to appeal to the Supreme Court of the Philippine Islands, in terms as follows:

(CAPTION AND TITLE OMITTED)

"EXCEPTION AND NOTICE OF APPEAL

COMES NOW, the plaintiff in the above entitled action through the undersigned attorneys, and makes of record its exception to the order of this Honorable Court dated March 17, 1934, denying the motion for a new trial presented by the plaintiff, a copy of which was received by the undersigned counsel on March 19, 1934, and announces its intention to appeal against the said decision to the Supreme Court of the Philippine Islands by way of the usual bill of exceptions.

Manila, P. I., March 20, 1934.

ROSS, LAWRENCE & SELPH
By (Sgd.) ROBERT JANDA
Attorneys for Plaintiff,
414 National City Bank Bldg.,
Manila."

The petitioner's bill of exceptions, consisting of the foregoing proceedings, having been submitted to the Court for approval within the legal period, the same was approved and forwarded to the Supreme Court, for the prosecution of the appeal interposed by the petitioner.

## II. PROCEEDINGS IN THE SUPREME COURT

The case was docketed in the Supreme Court on April 25, 1934, under G. R. No. 41680, and in due time was submitted to the Court for decision upon the briefs filed by the parties, the appellant having made the following assignment of errors:

### ASSIGNMENT OF ERRORS

I

The trial Court erred in holding that Section 21 of the Tariff Law of 1909 does not authorize a refund of the tariff duties, less 1% thereof, paid on fuel oil used to propel vessels of foreign registry

in trade between the Philippine Islands and foreign countries.

II

The trial Court erred in refusing to issue the writ petitioned for in this case and in entering judgment for respondent.

III

The trial Court erred in denying petitioner's motion for new trial.

Manila, P. I., July 5, 1934.

Respectfully ..... ed,

ROSS, LAWRENCE & SELPH
By (Sgd.) ROBERT JANDA,
414 National City Bank Bldg.,
Manila, P. I.

On April 10, 1935, this Court rendered the following decision affirming the judgment appealed from:

(CAPTION AND TITLE OMITTED)

DECISION

VILLA-REAL, J.:

The instant case is before us by virtue of an appeal by the petitioner The Asiatic Petroleum Company, (P. I.) Limited, from a judgment of the Court of First Instance of Manila dismissing the petition for mandamus filed by it against the Insular Col-

lector of Customs, with costs against said petitioner.

In support of its appeal the appellant assigns the following alleged errors as committed in its said judgment by the court *a quo*, to wit:

I

"The trial Court erred in holding that Section 21 of the Tariff Law of 1909 does not authorize a refund of the tariff duties, less 1% thereof, paid on fuel oil used to propel vessels of foreign registry in trade between the Philippine Islands and foreign countries.

II

"The trial Court erred in refusing to issue the writ petitioned for in this case and in entering judgment for respondent.

III

"The trial Court erred in denying petitioner's motion for new trial."

The relevant facts necessary for a determination of the questions raised in this appeal are briefly stated in the appealed decision, as follows:

"The cause was submitted by the parties for the judgment of the court upon a stipulation of facts: From this and the other documentary evidence of record it appears that the petitioner, a corporation duly registered and authorized to do business in the Philippine Islands, has imported big

quantities of fuel oil. On various dates in the years 1932 and 1933 the petitioner loaded in the fuel tank of the steamships SAPAROEA, ANGLO SWEDE, PETER MAERSK, ANNA MAERSK, SOMERVILLE, LINDENBANK, ANKING, FERNWOOD, STANFORD, TAIPING, and CHANGTE, all of foreign registry, but engaged in trade between the Philippine Islands and foreign countries, various quantities of fuel oil, and paid to the respondent the corresponding import duties. Later the petitioner filed with the respondent drawback entries exhibit 1 to 21 with respect to said fuel oil, in order to secure a refund of the import duties levied thereon, less one per cent (1%), in accordance with section 21 of the Tariff Law of 1909. The respondent refused to liquidate said drawback entries, alleging that inasmuch as the vessels on which said fuel oil had been loaded were of foreign registry, the petitioner was not entitled to a refund of the duties in question."

The only question to be determined in this appeal is whether or not the phrase "vessels engaged in trade with foreign countries", used in section 21 of the Philippine Tariff Law of 1909, refers to all vessels in general or only to vessels of Philippine or American registry.

The aforesaid section 21 of the Philippine Tariff Law of 1909 provides as follows:

"SEC. 21. That on all fuel imported into the

> Philippine Islands which is afterward used for the propulsion of vessels engaged in trade with foreign countries, or between ports of the United States and the Philippine Islands, or in the Philippine coastwise trade, a refund shall be allowed equal to the duty imposed by law upon such fuel, less one per centum thereof, which shall be paid under such rules and regulations as may be prescribed by the Insular Collector of Customs."

There are three cases wherein the law authorizes the refund of customs duties on imported fuel which is later used for the propulsion of vessels: first, in the case of vessels engaged in trade with foreign countries; second, in the case of those engaged in trade between ports of the United States and the Philippine Islands; and third, in the case of those engaged in the Philippine coastwise trade.

As to the second and third cases, there is no question that vessels of American or Philippine registry may engage in trade between the ports of the United States and the Philippine Islands or in Philippine coastwise trade.

As to the first case, the purpose of the drawback privilege of customs duties allowed by tariff laws is set forth in 23 Ruling Case Law, p. 1053, par. 69, as follows:

> "69. DRAWBACKS.—It has long been the policy of the tariff laws to allow a drawback of

duties paid on imports which are not consumed in this country but are exported to other countries. One of the purposes of the drawback provision is to make duty free imported materials which are manufactured here and then returned whence they came or to some other country. The object of this provision is not only to build up an export trade but to enourage manufactures of this country, where such manufactures are intended for exportation, by granting a rebate of duties on the raw or prepared materials imported, and thus enabling the manufacturer to compete in foreign markets with the same article manufactured in other countries. But where a privilege is granted any doubt is resolved in favor of the government, and so a drawback, being a governmental grant of a privilege or benefit, is to be construed in favor of the government and against the party claiming the grant. x x x."

Like the drawback privilege of duties on raw materials imported from a foreign country and manufactured for subsequent exportation in manufactured form to the same foreign country of their origin or to some other country, the purpose of which is to build up an export trade or to encourage the establishment of industries for the exportation of manufactured products, the drawback privilege of duties on imported fuel which is later used for the propulsion of vessels engaged either in costwise or foreign trade, has for its purpose to build up and

protect a national merchant marine engaged in said trade. If this is the object of the drawback privilege granted by tariff laws, the intention of the Congress of the United States in establishing said privilege in the Act of August 5, 1909, known as the Tariff Law of 1909, could have been no other than to foster and give impetus to the establishment and promotion in these Islands of a merchant marine engaged not only in coastwise but also in foreign trade. The phrase "vessels engaged in trade with foreign countries" cannot therefore be interpreted as including vessels of foreign registry engaged in trade with foreign countries, because it would be contrary to such intention and object. If the same privilege were given to foreign vessels which are engaged in trade with foreign countries, and stop at Philippine ports in order to carry abroad products of this country, it would be difficult to establish a Philippine merchant marine engaged in trade with foreign countries, inasmuch as foreign vessels engaged in trade with foreign countries can compete advantageously with vessels of Philippine registry, bearing in mind that foreign merchants engaged in export and import business would, under the same circumstances, prefer to ship their goods on board the vessels of their country.

In the case of Smith, Bell & Co. *vs.* Natividad, 40

Phil. Rep. 136, this Court in interpreting the provisions of Act 2761, enacted by authority of the Act of the United States Congress of April 29, 1908, repealing another Act of the same body of August 30, 1906, which limited certificates of Philippine registry to vessels of domestic ownership and those owned by citizens of the United States, said:

> "Without any subterfuge, the apparent purpose of the Philippine Legislature is seen to be to enact an anti-alien shipping act. The ultimate purpose of the Legislature is to encourage Philippine ship-building. This, without doubt, has, likewise, been the intention of the United States Congress in passing navigation or tariff laws on different occasions. The object of such a law, the United States Supreme Court once said, was to encourage American trade, navigation, and ship-building by giving American ship-owners exclusive privileges. (Old Dominion Steamship Co. *vs.* Virginia (1905), 198 U. S. 299; Kent's Commentaries, Vol. 3, p. 139)"

The Act of Congress of March 3, 1883 (22 Stat. L., 488), provides in its schedule "N" the following:

> "Coal, bituminous and shale, seventy-five cents per ton of twenty-eight bushels, eighty pounds to the bushel.
>
> A drawback of seventy-five cents per ton shall be allowed on all bituminous coal imported into the

> United States which is afterwards used for fuel on board vessels propelled by steam (page 366) which are engaged in the coasting trade of the United States or in the trade with foreign countries, to be allowed and paid under such regulations as the Secretary of the Treasury shall prescribe."

The Secretary of the Treasury and the Collector of Customs of New York had construed said legal provision in the sense that the drawback privilege of customs duties on coal extended to vessels of foreign registry and was not restricted to vessels of American registry. The legal provision above quoted was given a legislative interpretation in the Act of June 19, 1886, (24 Stat. L., 81) in the following form:

> "Sec. 10. That the provisions of Schedule N of an act to reduce inter-revenue taxation, and for other purposes, approved March 3, 1883, allowing a drawback on imported bituminous coal used for fuel on board vessels propelled by steam, shall be construed to apply only to vessels of the United States."

This last legal provision was applied in the case of The Cunard Steamship Co. *vs.* United States, 25 C. Cls. R., 428, decided by the Court of Claims.

(See also Kennedy *vs.* The United States, 23 C. Cls., R., 361.)

It will therefore be seen that although the privilege had been granted to foreign vessels from 1883 to 1886 by the customs authorities, the United States Congress in said year 1886 interpreted the aforesaid legal provision in the sense that the drawback privilege of customs duties was applicable only to United States vessels.

In giving such interpretation the United States Congress no doubt had for its object the protection and promotion of the United States merchant marine. In enacting section 21 of the Tariff Law of 1909 the same Congress could not have had any other object with respect to the Philippine merchant marine. With this object in view the phrase "vessels engaged in trade with foreign countries" cannot therefore be in any wise interpreted except in the restrictive sense that only vessels of American or Philippine registry, engaged in trade with foreign countries, are included.

By virtue of the foregoing considerations, we are of the opinion, and so hold, that the phrase "vessels engaged in trade with foreign countries", used in section 21 of the Philippine Tariff Law of 1909, refers to vessels of Philippine or American registry engaged in trade with foreign countries.

Accordingly, the judgment appealed from is affirmed, with cost against the appellant.

It is so ordered.

(Sgd.) ANTONIO VILLA-REAL
March 25, 1935.

WE CONCUR:

(Sgd.) THOS. A. STREET
" GEO. A. MALCOLM
" C. A. IMPERIAL
" GEORGE C. BUTTE
" ANACLETO DIAZ

From said decision Mr. Justice Goddard dissented, with the concurrence of Justices José A. Santos, J. A. Hull and J. C. Vickers, as follows:

GODDARD, J., dissenting:

I dissent.

The facts of this case may be briefly summarized as follows:

On various dates during the latter part of 1932 and the first semester of 1933, petitioner, a Philippine corporation, duly imported quantities of fuel oil into the Philippine Islands and paid the appropriate import duties thereon. Petitioner sold part of the said fuel to various local agents of foreign shipping firms, subject to the agreement that drawbacks of customs duties paid on the said oil were to be for account of petitioner. In due course the

said fuel oil was put into the fuel tanks on various vessels of British, Swedish, Dutch, Danish, or Norwegian registry and used by them for their propulsion while engaged in trade between the Philippine Islands and foreign countries. Said fuel oil was placed upon the respective vessels under the supervision of customs inspectors who duly certified the amount of the said fuel oil which had been loaded. In due course petitioner prepared and presented the appropriate drawback entries and requested t[redacted]the customs duties paid on said fuel oil, less one per cent thereof, be refunded to it as provided in section 21 of the Tariff Law of 1909, as amended. Respondent refused to sign the said drawback entries and to allow the said refund on the ground that section 21 of the Tariff Law of 1909 did not authorize drawbacks for fuel oil used on vessels of foreign registry.

The only question for decision in this case is whether or not the trial court erred in holding that section 21 of the Tariff Law of 1909 does not authorize a refund of the tariff duties, less one per cent thereof, paid on fuel oil used to propel vessels of foreign registry in trade between the Philippine Islands and foreign countries. That section reads as follows:

Sec. 21. That on all fuel oil imported into

> the Philippine Islands which is afterwards used for the propulsion of vessels engaged in trade with foreign countries, or between ports of the United States and the Philippine Islands, or in the Philippine coastwise trade, a refund shall be allowed equal to the duty imposed by law upon such fuel, less one per centum thereof, which shall be paid under such rules and regulations as may be prescribed by the Insular Collector of Customs."

It is obvious that this section does not expressly restrict the drawbacks allowed to vessels of Philippine registry. However, the trial court held that "considering the primary purpose of Congress for which said tariff law was promulgated for the Philippines which is to protect the industy, agriculture and commerce of this country x x x said provisions (section 21, quoted above) exclude the vessels of foreign registry from the benefits of refund provided therein." Before it could arrive at this conclusion the lower court proceeded to amend section 21 by inserting between the words "vessels"and "engaged" the phrase "of Philippine registry". As thus amended, that section reads as follows:

> That on all fuel oil imported into the Philippine Islands which is afterwards used for the propulsion of vessels of *Philippine registry* engaged in trade with foreign countries, or between ports of the United States and the Philippine Islands, or

> in the Philippine coastwise trade, a refund shall be allowed equal to the duty imposed by law upon such fuel, less one per centum thereof, which shall be paid under such rules and regulations as may be prescribed by the Insular Collector of Customs.

The majority opinion of this court not only adopts and approves this judicial amendment of section 21 of the Tariff Law of 1909, an Act of the Congress of the United States, but further amends it by including vessels of American as well as Philippine registry. In other words the trial court did not amend the law far enough.

This judicial amendment is adopted in view of the fact that this section used the phrase "vessels engaged in trade with foreign countries" which phrase, according to the trial court, indicates that the vessels therein contemplated are vessels of Philippine registry, for, if the intention of Congress was to include vessels of foreign registry, the word "between" would have been used in place of "with" between the words "trade" and "foreign countries."

Notwithstanding the intricate reasoning upon which this judicial amendment of section 21 is based, I am still unable to understand why it was deemed necessary to insert the phrase "of Philippine registry" between the words "vessels" and "engaged". The Act of Congress is perfectly clear

without any insertion. To my mind a vessel carrying copra from Manila to Japan, whether it be of foreign or of Philippine registry, is engaged in trade with Japan.

In the case of Joseph S. Kennedy et al. v. The United States, 23 Court of Claims Reports 363, the claimants filed a petition to recover certain sums of money for drawback on foreign bituminous coal shipped as fuel on vessels of foreign registry plying from the port of New York to foreign ports. That court stated:

> The drawback is claimed under the Act March 3, 1883, (22 Stat. L., 488). In Schedule N of that Act is the following provision:
>
> Coal, bituminous and shale, seventy-five cents per ton of twenty-eight bushels, eighty pounds to the bushel.
>
> A drawback of seventy-five cents per ton shall be allowed on all bituminous coal imported into the United States which is afterwards used for fuel on board vessels propelled by steam (page 366) which are engaged in the coasting trade of the United States or in the trade with foreign countries, to be allowed and paid under such regulations as the Secretary of the Treasury shall prescribe.
>
> Upon the reshipment of the coal all the requirements of this Act and the regulations of the Secretary of the Treasury were complied with by

the claimants, but before the collector of customs had issued the drawback certificate, the Act June 19, 1886, (24 Stat. L., 81) was passed, in which is found the following provisions:

Sec. 10. That the provisions of Schedule N of an Act to reduce internal revenue taxation, and for other purposes, approved March 3, 1883, allowing a drawback on imported bituminous coal used for fuel on board vessels propelled by steam, shall be construed to apply only to vessels of the United States.

The Secretary of Treasury, in doubt as to the effect of this statute upon prior reshipments, directed the collector to withhold certificates of drawback.

It will be observed that the claimants' right to demand such certificates was complete before the construing of the act was passed.

The Court of Claims in that case entered judgment in favor of the claimants for the full amount of the drawback claimed.

I call attention to the following language which was construed in the above case: A drawback x x x shall be allowed on all bituminous coal imported into the United States which is afterwards used for fuel on board vessels, propelled by steam, which are engaged x x x in the trade with foreign countries. (Act of Congress of March 3, 1883.)

Now, compare the above with the language used in section 21, construed in this case by the trial court and by the majority opinion of this court: That on all fuel imported into the Philippine Islands which is afterwards used for the propulsion of vessels engaged in trade with foreign countries x x x x a refund shall be allowed equal to the duty imposed by law upon such fuel, less one per centum thereof x x x. (Sec. 21, Philippine Tariff Law of 1909).

The language in these statutes are almost identical. The word "with" is used in both in the same connection; however, the United States Court of Claims did not deem it necessary to insert the words "of United States registry" between the words "vessels" and "engaged." It is evident that that learned court did not believe that the "preposition 'with' requires necessarily a substantive complement which refers to something which should be of local nature."

Which theory should be adopted in this case, that of the United States Court of Claims or that of the trial court and the majority of this court? With all due respect to the learned trial judge and the distinguished members of this court who have signed the majority opinion, I believe that the decision of the United States Court of Claims should control in this case and that this court should stand by its holding in the case of Yangco v. Aldanese, 51

Phil. 351, wherein this same section of the Tariff Law of 1909 was under consideration:

> It must be understood that Congress has given the words used in its Act of 1909 the same meaning they have in its legislation as construed by the courts of the United States.

The language under consideration in this case hase been construed by a United States court. Why not follow that construction and be consistent? Especially when that construction does not depend upon a judicial amendment of an act of the Congress of the United States.

I agree with the appellant that the "situation in the Kennedy case was even stronger for construing this language to include only vessels of United States registry, for in that case there had been a subsequent statute providing that the tariff provision shall be construed to apply only to vessels of the United States'. Yet the court held that shipments made on vessels of foreign registry, where the shipment was made before the effective date of the (amending) statute, were subject to drawbacks."

Furthermore, I cannot agree with the proposition that the principal purpose of section 21 of the Philippine Tariff Law is to encourage and benefit vessels of Philippine registry. I am of the opinion that the principle purpose of the drawback provi-

sion, in that section, is to enable local business men and firms to successfully compete with those doing business in foreign ports in securing the business of fueling vessels of all nations. Increasing the cost of fuel to vessels of foreign registry by imposing duties thereon, which duties are not justified as the fuel is not used in these Islands, will certainly result in the fueling of such vessels in nearby foreign ports to the detriment of local merchants and also to the detriment of the Government due to the fact that local merchants will not import and pay duty on oil they cannot sell nor will they pay the same amount, as sales and income tax, that they are now paying as their future sales of fuel oil will be limited to the vessels of United States and Philippine registry.

Another significant fact, which should be considered in order to arrive at a proper decision of this case, is that the United States Tariff Law of March 3, 1883, was amended by the Act of Congress of June 19, 1886, which amendment limited the drawback privilege to vessels of United States registry. Yet Congress passed the Philippine Tariff law in the year 1909, thirteen years later, in which section 21, quoted above, appears in practically the same language as that used in the Act of March 3, 1883. It seems reasonable to presume

that had Congress meant to limit the drawback privilege of the Philippine Tariff Law to vessels of Philippine registry alone, or to vessels of Philippine Registry and United States registry, it would have been a very simple matter for it to have employed appropriate language to express its intention to carry the amendment, appearing in the Act of June 19, 1886, into the Philippine Tariff Law of 1909. For example, that intention could have been expressed as follows: That on all fuel imported into the Philippine Islands which is afterwards used for the propulsion of vessels of United States or Philippine registry engaged in trade, a refund shall be allowed, etc. So expressed it would have been unnecessary for the majority of this court to amend section 21 by inserting the following six words "of United States or Philippine registry," which make the following twenty words of that section surplusage:

> "x x x with foreign countries, or between ports of the United States and the Philippine Islands, or in the Philippine coastwise trade, x x x".

As Congress did not carry the 1886 amendment into the Philippine Tariff Law it also seems reasonable to presume that section 21 of that law means what it says and, therefore, that the construction of the United States Court of Claims of similar language appearing in the Act of March 3, 1883, should be followed by this court.

An elementary rule of construction is that where the language of a statute is plain and unambiguous, there is no occasion for construction.

Another well established rule of construction is that the courts must confine themselves to the construction of the law as it is and not supply defective legislation, or otherwise amend or change the law under the guise of construction.

> "The scope of judicial interpretation does not admit the right of reading other words into the law. It would be objectionable, and a species of legislative judicial action always to be avoided." Walker v. Vicksburg, etc., R. Co., 34 So. 749, 110 La. 718, 721.

> "The judiciary, above all, on account of the peculiar position it occupies in the construction and interpretation of law, should scrupuliusly keep within its sphere, following the ancient landmarks so far as adapted to modern conditions, and avoiding always the reproach of undertaking to legislate, directly or indirectly." Austin v. Cahill, 88 S. W. 542, 546, 99 Tex. 17.

In view of the foregoing, the judgment of the trial court should be reversed and judgment entered:

(a) Requiring respondent to liquidate the drawback entries filed by appellant.

(b) Requiring appellee to sign and issue the necessary warrants for refund to appellant of the

amount of the duties paid by it on the said imported oil, for which drawback entries have been filed, less one per cent, as provided by law, with costs against the appellee in both instances.

(Sgd.) LEONARD S. GODDARD

WE CONCUR IN THE DISSENTING OPINION:

(Sgd.) JOSE A. SANTOS
" J. A. HULL
" J. C. VICKERS

On April 23, 1935, the petitioner-appellant filed the following motion for reconsideration of the decision rendered by this Court:

(CAPTION AND TITLE OMITTED.)

MOTION FOR RECONSIDERATION

COMES NOW Petitioner-Appellant and respectfully moves that this court reconsider its decision in the above entitled case on the following grounds:

1. The language of Section 21 of the Tariff Law is clear and unequivocable. It nowhere limits the drawback provisions to vessels of Philippine or American registry, either expressly or by necessary implication, and for the Court to impose such a restriction constitutes an assumption by the court of the legislative powers of Congress. There are well-

recognized limits upon the power of a court to construe legislation and among these limitations is one to the effect that a court may not under the guise of construing legislation totally alter the provisions of the law as passed by the legislative branch of government. The power and duty to amend legislation rests with the Legislature and not with the judicial branch of the government. If the legislative branch of the government desires the provisions of Section 21 of the Tariff Law to be restricted to vessels of Philippine or American registry, it has had ample opportunity to so provide during the more than twenty-five years during which the Act has been consistently construed by both the courts, (as in the Kennedy case), and by the Administrative officials entrusted with its enforcement as including vessels of foreign registry.

2. Petitioner urges that the court consider the effect upon local merchants of the decision rendered in this case. For a period of over twenty-five years the Collector of Customs has consistently allowed drawbacks on coal and fuel oil used on vessels of foreign registry. If the present decision of the Court is not set aside, the Government may now proceed to recover from the merchants to whom the drawbacks have been allowed the full amount of such drawbacks. The liability of local merchants

would run into hundreds of thousands of pesos and many would be forced into bankruptcy. Petitioner submits that since the parties involved have in all cases acted in good faith and in reliance upon settled administrative practice, that to require them at this time to repay the Government the huge sums involved would, under the circumstances here present, work upon them a gross injustice. The court must realize that settled practice of twenty-five years' standing, and upon which business men have for years based their transactions, should not be set aside except for the gravest of reasons. Certainly the belated discovery that the purpose of the Act was to benefit vessels of local registry and the intricate reasoning of the Attorney General's ruling form no basis for such action.

3. The language used in Section 21 of the Tairff law was taken from prior Tariff Laws of the United States. Practically identical language has been construed by the United States Courts to entitle vessels of foreign registry to drawbacks on fuel used in their propulsion in foreign trade. (Kennedy el al v. U. S. 23 Ct. of Claims, Rep. 353.) Congress in subsequently adopting similar wording (as in the Philippine Tariff Act which was adopted after the decision in the Kennedy case), must be taken as having used it in the sense in which it was

construed by the courts. Furthermore, this court has on previous occasions specifically held that the Philippine tariff act was to be interpreted in the same manner as the United States courts have interpreted similar provisions in the United States tariff laws.

4. The court bases its decision upon the assumption that the drawback provisions of Section 21 of the Tariff Law was enacted for the purpose of benefiting vessels of Philippine and American registry. Petitioner can find no basis in the act for such an assumption and desires to direct the attention of the court to the fact that no benefit will accrue to them, while the construction placed upon the act will work a very direct and immediate harm to a large class of local business men. Vessels of local and American registry will be afforded no advantage for vessels of foreign registry will merely refuel at any of their numerous eastern ports of call where they may purchase fuel without paying Philippine duties thereon. Philippine business men will be seriously harmed because they will lose whatever business they have heretofore enjoyed from refueling and reprovisioning vessels of foreign registry.

Manila, P. I., April 17, 1935.

Respectfully submitted.

ROSS, LAWRENCE & SELPH

By (Sgd.) ROBERT JANDA
Attorneys for Petitioner-Appellant,
414 National City Bank Bldg.,
Manila.

Said motion was denied in the resolution of this Court of July 20, 1935, reading as follows:

(CAPTION AND TITLE OMITTED.)

Upon consideration of the motion of the attorneys for the petitioner and appellant in case G. R. No. 41680, The Asiatic Petroleum Company (P. I.), Limited vs. The Insular Collector of Customs, praying that the decision heretofore rendered therein be reconsidered, the court sitting *in banc* DENIED the motion. Messrs. Justices Santos, Hull, Vickers, and Goddard, dissented.

On July 16, 1935, the petitioner-appellant filed a petition, praying for authority to secure the depositions of certain witnesses as to the past official acts and practices of the Collector of Customs with respect to drawback of customs duties on fuel oil, for the information of this Court. Said petition is as follows:

## PETITION

Appellant, through its undersigned attorneys, to the Honorable Court respectfully states:

I

That on the 10th day of April, 1935, the Court rendered a decision in the above entitled case affirming the decision of the trial court and directing that the case be remanded to the trial court for entry of judgment in favor of the defendant; that four justices dissented from the aforesaid decision in a separate opinion in which they stated that the decision of the trial court should be reversed and judgment be entered in favor of the appellant.

II

That on or about the 23rd day of April, 1935, appellant filed a motion for reconsideration, which motion is still pending before this court.

III

That in its said motion for reconsideration, petitioner has urged upon the court that the Collector of Customs has for a period of approximately twenty-five years prior to the bringing of this action, consistently ruled that customs drawbacks were allowable with respect to fuel oil used on vessels of foreign registry and that as a consequence the ruling of the Attorney General's office upon which defend-

ant bases his refusal to sign the drawbacks in this case, upsets an established practice which had been followed without question for twenty-five years.

IV

That the ruling and practice of the Collector of Customs for the past twenty-five years is a matter of which the Court may properly take judicial notice and concerning which it is unnecessary that appellant introduce evidence, Section 275 of the Code of Civil Procedure providing in part:

> "Sec. 275. Matters Judicially Recognized— . . . official acts of the legislative, executive, and judicial departments . . . of the Philippine Islands . . . and all similar matters of public knowledge shall be judicially recognized by the court without the introduction of proof."

That the action of the Collector of Customs in allowing drawbacks as aforesaid is an official action within the scope of his official duties.

V

That beyond the inference which the Court may draw from the date of the passage of the tariff law as compared with the date of the ruling of the Attorney General's office as aforesaid, and from the fact that some of the drawback entries introduced in evidence in this case had actually been filled out,

nothing appears expressly in the record from which the court can inform itself with respect to the fact that from the twenty-five-year period in question the Collector of Customs granted drawbacks as aforesaid.

VI

That it is proper for the court to take evidence to satisfy itself upon these points, the Code of Civil Procedure specifically providing:

> "Sec. 275. . . . . matters of public knowledge shall be judicially recognized without the introduction of proof; but the court may receive evidence upon any of the subjects in the section stated, where it shall find it necessary for its own information, and may resort for its aid to appropriate books, documents, or evidence.

WHEREFORE, petitioner respectfully prays the Court:

That petitioner be authorized to take depositions of such witnesses as may have knowledge of the past official actions and practice of the Collector of Customs with respect to drawbacks of customs duties of fuel oil used on vessels of foreign registry in order that the court may properly inform itself in this matter, and that the court direct that these depositions be attached to the record in this case.

Manila, P. I., July 16, 1935.

ROSS, LAWRENCE & SELPH

By (Sgd.) ROBERT JANDA
Attorneys for Petitioner-Appellant,
414 National City Bank Bldg.,
Manila.

The foregoing petition was denied in the resolution of this Court of July 20, 1935, which reads as follows:

> "Upon consideration of the motion of the attorneys for the petitioner and appellant in case G. R. No. 41680, The Asiatic Petroleum Company (P. I.), Limited vs. The Insular Collector of Customs, praying that the petitioner be authorized to take depositions of such witnesses as may have knowledge of the past official actions and practice of the Collector of Customs with respect to drawbacks of customs duties of fuel oil used on vessels of foreign registry in order that the court may properly inform itself in this matter, and that the court direct that these depositions be attached to the record in this case, the court sitting *in banc* DENIED the motion."

In pursuance of said decision of April 10, 1935, final judgment was entered on July 26, 1935, as follows:

(CAPTION AND TITLE OMITTED)

## JUDGMENT

The Court having regularly acquired jurisdiction for the trial of the above-entitled cause submitted by both parties for decision, after consideration thereof by the Court upon the record, its decision and order for judgment having been filed on the 10th day of April, A. D. nineteen hundred and thirty-five;

By virtue thereof it is hereby adjudged and decreed that the judgment of the Court of First Instance of Manila, dated the 23rd day of February, nineteen hundred and thirty four, and from which the above-entitled appeal was taken, be, and the same is hereby, affirmed with the costs against the appellant.

It is further ordered that the appellee recover from the appellant the sum of ₱40.00, as costs.

(Sgd.) V. ALBERT,
Clerk of the Supreme Court of the
Philippine Islands.

CERTIFIED CORRECT:
V. ALBERT,
Clerk of the Supreme Court of the
Philippine Islands.

On July 24, 1935, the attorneys for the petitioner-appellant filed an exception to said decision, and gave notice of their intention to file a petition for a writ of certiorari. Said exception and notice reads as follows:

(CAPTION AND TITLE OMITTED)

## EXCEPTION AND NOTICE OF PETITION FOR WRIT OF CERTIORARI

COMES NOW the Petitioner-Appellant in the above entitled cause, by its undersigned attorneys, and excepts to the decision rendered by this Honorable Court on the 10th day of April, 1935, denying its motion for reconsideration in the above entitled action, and also excepts to the final judgment entered therein. Notice is hereby given that the Petitioner-Appellant intends to petition the Supreme Court of the United States for a writ of certiorari for a review of the decision and judgment of this Court; and said Petitioner-Appellant hereby makes application for the retention of the record in said cause in this Court pending the preparation and certification of said record and the presentation of said petition to the Supreme Court of the United States.

The grounds, inter alia, upon which the Petitioner-Appellant intends to petition the Supreme

Court of the United States for a writ of certiorari for the revision of the decision and judgment of this Court hereinabove referred to are that this Court, in its decision in the said cause, misapplied and erroneously construed the provisions of the Act of Congress of August 5, 1909 (Philippine Tariff Law).

Petitioner-Appellant also prays for a stay of enforcement of the judgment of this Court during the pendency of the application for the writ of certiorari and of the proceedings to be had in the Supreme Court of the United States.

Manila, P. I., July 23, 1935.

ROSS, LAWRENCE & SELPH
By (Sgd.) ROBERT JANDA
Attorneys for Petitioner-Appellant,
414 National City Bank Bldg.,
Manila.

RECEIVED COPY this 24 day
of July, 1935.
SOLICITOR-GENERAL,
Manila.

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In view of said exception and notice, the Supreme Court of July 26, 1935, adopted the following resolution, ordering that said exception and notice be made of record, and requiring the petitioner-

appellant to file a *supersedeas* bond in the sum of ₱2,000.00.

> Upon consideration of the motion of the attorneys for the petitioner and appellant in case G. R. No. 41680, The Asiatic Petroleum Company (P. I.), Limited, vs. The Insular Collector of Customs, excepting to the decision rendered by this court on the 10th day of April 1935, and to the order of this court of July 30, 1935, denying its motion for reconsideration of said decision, as well as to the final judgment entered therein; giving notice of the petitioner's intention to petition the Supreme Court of the United States for a writ of certiorari for a review of said decision and judgment, and praying for a stay of enforcement of the judment of this court during the pendency of the application for the writ of certiorari and of the proceedings to be had in the Supreme Court of the United States, the court sitting *in banc ORDERED* that the exception and notice of appeal be noted and, upon the filing of a bond in the amount of ₱2,000.00 to be approved by Mr. Justice Villa-Real, the stay of execution will be issued."

---

In pursuance of the foregoing resolution the petitioner-appellant filed on July 30, 1935, a *supersedeas* bond for the sum of ₱2,000.00, which was approved on July 31, 1935, by this Court, through Associate Justice Antonio Villa-Real.

## UNITED STATES OF AMERICA

### IN THE SUPREME COURT OF THE PHILIPPINE ISLANDS

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I, V. ALBERT, Clerk of the Supreme Court of the Philippine Islands, do hereby certify that the foregoing 166 printed pages contain a true and correct translation and trancript of the record of the case, entitled The Asiatic Petroleum Company (Philippine Islands), Limited *versus* The Insular Collector of Customs, bearing No. 41680 of the General Register of this Supreme Court.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Supreme Court of the Philippine Islands this.....day of September, nineteen hundred and thirty-five.

.....

V. ALBERT
Clerk of the Supreme Court of the Philippine Islands.

Service on this date of copies hereof is hereby acknowledged by

.....

SOLICITOR-GENERAL
Attorney for the Respondent.

SUPREME COURT OF THE UNITED STATES

ORDER ALLOWING CERTIORARI—Filed February 3, 1936

The petition herein for a writ of certiorari to the Supreme Court of the Philippine Islands is granted.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

(7422-C)

FILE COPY
No. 674

FILED
JAN 2 1936
CHARLES ELMORE CROPLEY
CLERK

IN THE

# Supreme Court of the United States

OCTOBER TERM, 1935.

THE ASIATIC PETROLEUM COMPANY (PHILIPPINE ISLANDS), LIMITED,
*Petitioner,*

*versus*

THE INSULAR COLLECTOR OF CUSTOMS,
*Respondent.*

## PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE PHILIPPINE ISLANDS AND BRIEF IN SUPPORT THEREOF

WM. D. WHITNEY,
*Counsel for Petitioner,*
Office and P. O. Address:
15 Broad Street,
New York, N. Y.

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IN THE

# Supreme Court of the United States

OCTOBER TERM, 1935.

| | |
|---|---|
| THE ASIATIC PETROLEUM COMPANY (PHILIPPINE ISLANDS), LIMITED, *Petitioner,* *versus* THE INSULAR COLLECTOR OF CUSTOMS, *Respondent.* | No. |

## PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE PHILIPPINE ISLANDS

*To the Honorable, the Chief Justice and Associate Justices of the Supreme Court of the United States:*

Your petitioner, The Asiatic Petroleum Company (Philippine Islands) Limited, respectfully prays for a writ of certiorari to the Supreme Court of the Philippine Islands to review a judgment of that Court, entered July 26, 1935, affirming by a divided Court (six judges voting for affirmance and four for reversal) a judgment of the Court of First Instance of Manila; and also, from a decision rendered by said Supreme Court of the Philippine Islands on July 20, 1935, denying your petitioner's motion for reconsideration. A certified transcript of the record in this case,

including the proceedings in said Supreme Court of the Philippine Islands, is furnished herewith in accordance with Rules 38, par. 1, and 42 of the Rules of this Court.

The judgment below denied petitioner's petition for a writ of mandamus requiring respondent to sign and issue the necessary warrants for the refund to petitioner of the amount, less one per cent., of the duties which it had paid on imported fuel oil which it subsequently sold for the propulsion of vessels (of foreign registry) engaged in trade with foreign countries, for which refund it had duly filed drawback entries.

## Statement.

This case involves the interpretation of the Act of Congress of August 5, 1909 (Philippine Tariff Law; L. 1909, Ch. 8, Sec. 21, 36 Stat. 176), which is as follows:

> "Sec. 21. That on all fuel imported into the Philippine Islands which is afterwards used for the propulsion of vessels engaged in trade with foreign countries, or between ports of the United States and the Philippine Islands, or in the Philippine coastwise trade, a refund shall be allowed equal to the duty imposed by law upon such fuel, less one per centum thereof, which shall be paid under such rules and regulations as may be prescribed by the insular collector of customs."

## Decision, and Question Presented.

The only question presented is one of law, namely, whether the refund thus provided for is payable with re-

spect to fuel oil used for the propulsion of vessels of *foreign registry* engaged in trade with foreign countries [R. 136]. The decision and judgment sought to be reviewed determine that it is not [R. 139].

The facts are presented by stipulation [R. 28-30] and twenty-two written exhibits annexed thereto [R. 30-127].

## The Facts.

Your petitioner is a corporation of the Philippine Islands.

The respondent is the Insular Collector of the Philippines.

On various dates during the latter part of 1932 and the first semester of 1933, petitioner imported quantities of fuel oil into the Philippine Islands and paid the appropriate duties thereon [R. 30-126].

Petitioner sold part of said fuel oil to local agents of foreign shipping firms, subject to the agreement with said firms that drawbacks of customs duties paid on said fuel oil were to be for the account of petitioner [R. 30-126].

In due course said oil was put into the fuel tanks of various vessels of British, Swedish, Dutch, Danish or Norwegian registry, and was used by them for their propulsion while engaged in trade between the Philippine Islands and foreign countries [R. 29].

In each case, petitioner filed with respondent a certificate of such sale; the latter directed the Surveyor of the Port of Manila to superintend the transfer of the oil to the designated vessel and make return to respondent; and such surveyor did certify to respondent the correct weight of the fuel oil thus laden [R. 30-126].

Petitioner then prepared and presented to respondent the appropriate drawback entries and requested that the customs duties paid on said fuel oil, less one per cent. thereof, be refunded to it as provided in Section 21 of said Tariff Law of 1909 [R. 30-126].

Respondent refused to authorize or pay said drawbacks, on the sole ground that the Secretary of Justice of the Philippine Islands in an opinion rendered on July 28, 1933, had determined that drawbacks of customs duties on imported fuel oil can only be allowed under said Section 21 of the Law of 1909 [36 Stat. 176], when such fuel is used for the propulsion of vessels of Philippine registry [R. 127].

This ruling reversed the prior ruling and practice of the Insular Collector of Customs which had theretofore been in effect since the enactment of the Law of 1909. This earlier ruling, although not directly established by evidence at the trial, was a matter of which the insular courts were required to take judicial notice [Section 275 of the Code of Civil Procedure of the Philippine Islands] and was directly presented to the Supreme Court on petitioner's application for a reconsideration [R. 159-161]. It is established indirectly by respondent's course of conduct in receiving some twenty-one certificates of sale of fuel oil to vessels of known foreign registry, and issuing directions for survey to the Surveyor of the Port of Manila, and accepting and holding certificates of survey and claims for refund until five days after the rendering of said opinion by the Minister of Justice [R. 127].

## REASONS FOR GRANTING THE WRIT.

### 1.

**The Supreme Court of the Philippine Islands has rendered a decision in conflict with the decision of the Court of Claims in Kennedy v. United States, 23 Ct. Cl. 363.**

A reviewable conflict is thus presented (*Raybestos-Manhattan, Inc.* v. *United States,* 295 U. S. 727).

The *Kennedy* case had under consideration the Act of March 3, 1883, Schedule N (22 Stat. 511), which then provided:

> "A drawback of seventy-five cents per ton shall be allowed on all bituminous coal imported into the United States which is afterwards used for fuel on board of vessels propelled by steam which are engaged in the coasting trade of the United States, or in the trade with foreign countries, to be allowed and paid under such regulations as the Secretary of the Treasury shall prescribe."

It was held that the right to drawback thus established was not limited to vessels of the United States, and this in spite of the enactment, subsequent to the accrual of claimant's right, of the Act of June 19, 1886 [24 Stat. 81, Sec. 10], which restricted said right to a drawback "to vessels of the United States."

We have found no decision in the United States or, prior to the present case, in the Philippines or elsewhere, which is contrary to the above decision. It was approved, at least inferentially, in *Cunard S. S. Co.* v. *United States,* 25 Ct. Cl. 428.

**2.**

**The Supreme Court of the Philippine Islands has decided a federal question of substance in a way probably not in accord with the applicable decisions of this Court.**

The Philippine Supreme Court decided that the refund provided for in this Act of Congress [36 Stat. 176, Sec. 21] was intended "to foster and give impetus to the establishment and promotion in these Islands of a merchant marine engaged not only in coastwise but also in foreign trade" [R. 139], this being also the interpretation placed thereon by the Philippine Secretary of Justice and by respondent [R. 127]. The effectuation of this supposed congressional purpose is the substantial basis of the decision [R. 142].

In *Campbell* v. *United States,* 107 U. S. 407, 413, it is said:

> "It has never been supposed that there was a gratuity in all the cases where imports are free of duty. The purpose of the drawback provision is to make duty free, imports which are manufactured here and then returned whence they came or to some other foreign country,—articles which are not sold or consumed in the United States."

The intent of such legislation is to aid local manufacture and trade.

*Campbell* v. *United States, supra;*
*Swann and Finch* v. *United States,* 190 U. S. 143, 146.

**3.**

**The decision affects substantially and adversely all persons importing fuel into the Philippine Islands, for resale in ocean commerce.**

Petitioner and others similarly engaged in such business conducted it on the strength of, and in reliance upon, the previous policy and ruling of respondent and his predecessors in office. If the rule laid down in this decision be applied retroactively to these transactions, the moderate profits derived therefrom will be transformed into substantial losses. *Miller, Collector* v. *Standard Nut Margarine Co.*, 284 U. S. 498.

If the rule of the decision be applied in the future, it will prevent petitioner and others similarly engaged from competing effectively with foreign dealers in fuel. The increase one hundred fold of the import duty can have no other effect.

## Assignments of Error.

The Supreme Court of the Philippine Islands erred:

1. In holding that Section 21 of the Act of August 5, 1909 (L. 1909, Ch. 8, Sec. 21) does not authorize a refund of the tariff duties, less 1% thereof, paid on fuel oil used to propel vessels of foreign registry in trade between the Philippine Isiands and foreign countries.

2. In refusing to issue the writ petitioned for in this case and in entering judgment for respondent.

3. In denying petitioner's motion for a reconsideration and a new trial.

WHEREFORE, your petitioner respectfully prays that a writ of certiorari be issued out of and under the seal of this Court, directed to the Supreme Court of the Philippine Islands, commanding said court to certify and send up to this Court, on a date to be designated, a full and complete transcript of the record and of all proceedings in the Supreme Court had in this case, to the end that this case may be reviewed and determined by this Court; that the judgment of said Supreme Court be reversed; and that your petitioner be granted such other and further relief as may seem proper.

WM. D. WHITNEY,
*Counsel for Petitioner.*

January 2, 1936.

## BRIEF IN SUPPORT OF PETITION.

### Opinions Below.

The opinions of the Court of First Instance of Manila [R. 127-131] and of the Supreme Court of the Philippine Islands [R. 134-154] have not yet been reported.

### Jurisdiction.

The jurisdiction of this Court is invoked under the Act of February 13, 1925, c. 229, § 7; 43 Stat. 940 (see *Gsell* v. *Insular Collector of Customs,* 239 U. S. 93).

### Argument.

The Philippine Tariff Law (36 Stat. 176, Sec. 21) directs the payment of a refund "on all fuel imported into the Philippine Islands which is afterward used for the propulsion of vessels engaged in trade with foreign countries * * *."

The Philippine Secretary of Justice [R. 127] and the Judge of the Court of First Instance [R. 130] have read into this statutory provision the phrase "of Philippine Registry."

The majority opinion in the Supreme Court has widened the limitation thus attempted to be read into the statute, by adding thereto vessels of American registry.

The statute is perfectly clear and unambiguous, both in its language and in its application to the facts. It leaves no room for construction (*United States* v. *Hill,* 248 U. S. 420, 424; *Adams Express* v. *Kentucky,* 238 U. S. 190, 199).

The construction adopted is unwarranted and erroneous (*Kennedy* v. *United States,* 23 Ct. Cl. 363).

The Act directs the "refund" of a tax previously paid by an importer. There is no basis in law or fact for the assumption, indulged in by the Philippine Courts and customs authorities, that the local merchant marine or that of the United States was its intended beneficiary.

*Campbell* v. *United States,* 104 U. S. 407 (*supra*);
*Swann and Finch* v. *United States,* 190 U. S. 143 (*supra*).

WM. D. WHITNEY,
*Counsel for Petitioner.*

January 2, 1936.

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IN THE

# Supreme Court of the United States

OCTOBER TERM, 1935.

THE ASIATIC PETROLEUM COMPANY
(PHILIPPINE ISLANDS), LIMITED,
*Petitioner,*

*versus*

THE INSULAR COLLECTOR OF CUSTOMS,
*Respondent.*

## PETITIONER'S BRIEF IN REPLY

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IN THE

# Supreme Court of the United States

OCTOBER TERM, 1935.

THE ASIATIC PETROLEUM COMPANY (PHILIPPINE ISLANDS), LIMITED
*Petitioner,*

*versus*

THE INSULAR COLLECTOR OF CUSTOMS,
*Respondent.*

## PETITIONER'S BRIEF IN REPLY

### Jurisdiction

This Court's jurisdiction over the present case was not affected by the enactment of the Philippine Independence Act of March 24, 1934 (48 Stat., 456). That Act provided:

> "Sec. 7. Until the *final and complete* withdrawal of American sovereignty over the Philippine Islands
>
> * * * * * * * *
>
> (6) Review by the Supreme Court of the United States of cases from the Philippine Islands shall be as now provided by law; * **." (48 Stat. 460, 462).

Final and complete withdrawal of American sovereignty over the Islands (within the contemplation of the introductory paragraph of Section 7) has not occurred, and is not imminent. Section 10 of the Act provides:

> "RECOGNITION OF PHILIPPINE INDEPENDENCE AND WITHDRAWAL OF AMERICAN SOVEREIGNTY
>
> "Sec. 10. (a) On the 4th day of July immediately following the expiration of a period of ten years from the date of the inauguration of the new government under the constitution provided for in this Act the President of the United States shall by proclamation withdraw and surrender all right of possession, supervision, jurisdiction, control, or sovereignty then existing and exercised by the United States in and over the territory and people of the Philippine Islands, including all military and other reservations of the Government of the United States in the Philippines (except such naval reservations and fueling stations as are reserved under section 5), and, on behalf of the United States, shall recognize the independence of the Philippine Islands as a separate and self-governing nation and acknowledge the authority and control over the same of the government instituted by the people thereof, under the constitution then in force" (48 Stat. 463).

Nor does the enactment of the Philippine Independence Act affect either the construction of the Philippine Tariff Act of 1909 (36 Stat. 130, 176), or the rights of petitioner or respondent thereunder.

The importation into the Philippines and the sale of this fuel oil, the filing of the drawback entries with respondent, and respondent's rejection thereof, had all taken place *before the enactment* of the Philippine Independence Act. The

claims were rejected by respondent on August 3, 1933 (R. 126). The Independence Act was not enacted until March 24, 1934 (48 Stat. 456).

Neither the character, the source, the authority nor the interpretation of the Tariff Act of 1909, in its application to transactions in and before 1933, was affected by this subsequent Independence legislation. And assuming, as respondent argues (his Brief, p. 8), that the Tariff Law of 1909 was repealed by the Independence Act in March, 1934, and that it was then or thereafter reinstated as Philippine legislation, those facts, occurring in 1934 and 1935, are without significance here except in so far as they throw into relief the fact that, in 1933, the tariff law of 1909 was a law of the United States which had neither been repealed, nor reenacted by the Philippine legislation.

Petitioner's right to the drawbacks here claimed had become vested property rights prior to the enactment of that legislation. Obviously an Independence Act cannot have retroactive application. None of the provisions of this Act are so expressed as to be retroactive, and upon unquestioned principles of construction they cannot be so applied as to divest vested rights.

The Tariff Act of 1909 did not cease to be a statute of the United States because of the enactment of the Philippine Organic Act of August 29, 1916 [39 Stat. 545]. [See Respondent's Brief, p. 4 *et seq.*].

When enacted by the Congress in 1909, this Tariff Law applied only to the Philippine Islands; was administered by the insular collector of customs; and its purpose was to raise Philippine revenue. None the less, it was a statute of the United States (*Gsell* v. *Insular Collector of Customs*, 239 U. S. 93). The statute has never been amended. Neither

its source nor any other fact concerning it was changed by the 1916 legislation.

In arguing that the 1916 legislation changed the character of the Tariff Act, counsel fails to distinguish between the grant of a power and its exercise. The so-called Organic Act left prior Congressional legislation in effect in the same way in which State legislation remains effective in a federal field prior to pre-emption thereof by Congressional enactment.

## The Merits

The rule underlying respondent's argument is that this Court will not overrule a local tribunal unless its decision is clearly erroneous. The rule does not mean that this Court will not exercise its independent judgment (*Philippine Sugar Estates Development Co., Inc.* v. *Philippine Islands,* 247 U. S. 385; Respondent's Brief, p. 10). A Congressional enactment being involved, and there having been a conflict between a decision of a territorial tribunal and a decision of the Court of Claims, the question appropriately awaits final determination by this Court.

It appears, moreover, that there is no established local construction, in the Islands, of this Revenue Act. No other decision was cited below. The present decision was by a divided court, and arose after the Insular legal authorities had changed their interpretation of the Act.

The question presented is not one of purely local concern, in the sense contended for. It involves the application of a statute based upon, and substantially identical with other revenue statutes of the United States, all involving the same theory and principles of taxation and rebate. In

that respect it resembles *Philippine Sugar Estates* v. *Philippine Islands* (247 U. S. 385, *supra,* cited by respondent) in which a general principle of equity which had been codified in the Philippine Insular Code was misapplied. This Court reversed the judgment.

The other cases cited by respondent do not support his argument.

*English* v. *Arizona,* 214 U. S. 359, presented merely the interpretation of an Arizona territorial statute concerning the levying of assessments on real estate for purposes of financing local improvements. This Court held that the statute had been properly construed.

*Santa Fe* v. *Friday,* 232 U. S. 694, presented nothing except a question of the jurisdiction of the local courts. This Court said:

> "The only argument addressed to us is an attack upon the jurisdiction of the court that tried the case."

*Ker* v. *Couden,* 223 U. S. 268, and *Villaneuva* v. *Villaneuva,* 239 U. S. 293, involved the interpretation of territorial code provisions taken from the law of Spain involving, respectively, accretion and avulsion with respect to real estate, and divorce.

*Ibanez* v. *Hongkong & Shanghai Banking Corp.,* 246 U. S. 627, involved an interpretation of an ambiguous territorial statute, in accordance with the construction of similar statutes in other jurisdictions.

*Nadal* v. *May,* 233 U. S. 447, presented nothing except a question of fact, as to when a provision of the Code of Porto Rico went into operation. It was in accord with earlier decisions on that question.

*Phoenix Ry.* v. *Landis,* 231 U. S. 578, involved the question whether the representative of an estate, suing

under an Arizona statute with respect to an action for death by negligence, need prove the existence of persons beneficially entitled under the estate.

*Cardona* v. *Quinones*, 240 U. S. 83, involved local rules of pleading and practice, and of fact, which appeared to have been correctly decided below.

*Lewis* v. *Herrera*, 208 U. S. 309 and *Copper Queen* v. *Arizona Board*, 206 U. S. 474 (both cited, Respondent's Brief, p. 12), involved comparisons of the constructions placed upon statutes of different jurisdictions. There was little or no similarity in the language of the statutes actually compared in the *Lewis* case. In the *Copper Queen* case, the construction complained of had controlled the statute for a long period prior to its enactment. The reenactment of the statute was regarded as a ratification of the construction attacked. The conflicting construction appeared to be the more vulnerable.

In all of the cases this Court appears to have concurred in the construction placed upon the statutes below. All of them involved decisions on the merits, rather than upon applications for review.

WM. D. WHITNEY,
*Counsel for Petitioner.*

January 20, 1936.

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IN THE

# Supreme Court of the United States

OCTOBER TERM, 1935

No. 674

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THE ASIATIC PETROLEUM COMPANY (PHILIPPINE ISLANDS), LIMITED,
*Petitioner,*

VERSUS

THE INSULAR COLLECTOR OF CUSTOMS,
*Respondent.*

---

ON WRIT OF CERTIORARI TO THE
SUPREME COURT OF THE PHILIPPINE ISLANDS

## BRIEF FOR PETITIONER

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*On the brief.*

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IN THE

# Supreme Court of the United States

OCTOBER TERM, 1935.

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| THE ASIATIC PETROLEUM COMPANY (PHILIPPINE ISLANDS), LIMITED, *Petitioner,* *versus* THE INSULAR COLLECTOR OF CUSTOMS, *Respondent.* | No. 674 |

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF THE PHILIPPINE ISLANDS.

## BRIEF FOR PETITIONER

### THE OPINIONS OF THE COURTS BELOW

The opinion of the Court of First Instance of Manila (R. 127-131), the opinion of the Supreme Court of the Philippine Islands (R. 134-143), and the dissenting opinion of four justices thereof (R. 143-154), are not yet reported.

### STATEMENT

#### Jurisdiction of this Court

The jurisdiction of this Court is invoked under the Act of February 13, 1925, Ch. 229, Sec. 7 (43 Stat. 940) which provides:

> "that in any case in the Supreme Court of the Philippine Islands wherein * * * any statute * * * of the

> United States is involved, it shall be competent for the Supreme Court of the United States, upon the petition of a party aggrieved by the final judgment or decree, to require, by *certiorari*, that the cause be certified to it for review and determination."

The Court's jurisdiction has been preserved by the Philippine Independence Act (Act of March 24, 1934, ch. 84, 48 Stat. 456, 48 U. S. C. A. § 1231 *et seq.*), which provides (in sub-division 6 of § 7 thereof, 48 Stat. 462, 48 U. S. C. A. § 1237) that

> "Review by the Supreme Court of the United States of cases from the Philippine Islands shall be as now provided by law * * *."

The statute, enacted by the Congress of the United States and involved in the decision of the Supreme Court of the Philippine Islands, is Sec. 21 of the Philippine Tariff Act of 1909 (36 Stat. 176):

> "Sec. 21. That on all fuel imported into the Philippine Islands which is afterwards used for the propulsion of vessels engaged in trade with foreign countries, or between ports of the United States and the Philippine Islands, or in the Philippine coastwise trade, a refund shall be allowed equal to the duty imposed by law upon such fuel, less one per centum thereof, which shall be paid under such rules and regulations as may be prescribed by the insular collector of customs."

The date of the judgment of the Supreme Court of the Philippines sought to be reviewed is July 26, 1935 (R. 162-163), and the petition for a writ of certiorari was filed January 2, 1936, and granted February 3, 1936 (R. 168).

## Decision and Questions Presented

The only questions presented are questions of law, namely (1) whether Section 21 of the Philippine Tariff Act of 1909 is a statute of the United States within the meaning of the Act of February 13, 1925, conferring jurisdiction to review decisions involving a statute of the United States, and (2) whether the refund provided for by Section 21 of the Philippine Tariff Act of 1909 is payable with respect to fuel oil used for the propulsion of vessels *of foreign registry* engaged in trade with foreign countries [R. 136].

The facts are presented by stipulation [R. 21-30] and 22 written exhibits annexed thereto [R. 30-127].

## The Facts

The petitioner is a corporation of the Philippine Islands.

The respondent is the Insular Collector of the Philippines.

On various dates during the latter part of 1932 and the first six months of 1933, petitioner imported quantities of fuel oil into the Philippine Islands and paid the appropriate duties thereon [R. 30-126].

Petitioner sold part of said fuel oil to local agents of foreign shipping firms, subject to the agreement with said firms that drawbacks of customs duties paid on said fuel oil were to be for the account of petitioner [R. 30-126].

In due course said oil was put into the fuel tanks of various vessels of British, Swedish, Dutch, Danish or Norwegian registry, and was used by them for their propulsion while engaged in trade between the Philippine Islands and foreign countries [R. 29].

In each case, petitioner filed with respondent a certificate of such sale; the latter directed the Surveyor of the Port of Manila to superintend the transfer of the oil to the designated vessel and make return to respondent; and such surveyor did certify to respondent the correct weight of the fuel oil thus laden [R. 30-126].

Petitioner then prepared and presented to respondent the appropriate drawback entries and requested that the customs duties paid on said fuel oil, less one per cent. thereof, be refunded to it as provided in Section 21 of said Tariff Law of 1909 [R. 30-126].

Respondent refused to authorize or pay said drawbacks on the sole ground that the Secretary of Justice of the Philippine Islands in an opinion rendered on July 28, 1933, had determined that drawbacks of customs duties on imported fuel oil can only be allowed under said Section 21 of the Law of 1909 [36 Stat. 176], when such fuel is used for the propulsion of vessels of Philippine registry [R. 127].

This ruling reversed the prior ruling and practice of the Insular Collector of Customs which had theretofore been in effect since the enactment of the Law of 1909. This earlier ruling, although not directly established by evidence at the trial, was a matter of which the insular courts were required to take judicial notice [Section 275 of the Code of Civil Procedure of the Philippine Islands] and was directly presented to the Supreme Court on Petitioner's application for a reconsideration [R. 159-161].

## SPECIFICATION OF ERRORS

The Supreme Court of the Philippine Islands and the Court of First Instance of Manila erred in limiting the re-

fund of tariff duties provided for by Section 21 of the Philippine Tariff Act of 1909 to refunds for fuel oil used for the propulsion of vessels *of Philippine or American registry.*

## SUMMARY OF ARGUMENT

### I.

This Court has jurisdiction to review the judgment of the Supreme Court of the Philippine Islands. The Tariff Act of 1909 is a statute of the United States, reviewable on certiorari by this Court, *Gsell* v. *Insular Collector of Customs,* 239 U. S. 93. The status of that Act was not altered or intended to be altered, by the Organic Act of 1916, or by the Independence Act of 1934, or otherwise.

### II.

On the merits, the decision of the Supreme Court of the Philippine Islands cannot be supported, for it reads into § 21 of the Tariff Act of 1909 a limitation inconsistent with its language and contrary to its purpose. The statute provides a drawback on all fuel imported and thereafter used for the propulsion of vessels engaged in foreign or coastwise trade. The Court of First Instance in effect inserted after the word "vessels" the phrase "of Philippine registry", and the Supreme Court of the Philippine Islands in turn widened this to read "of American or of Philippine registry". This was done on the theory that the purpose of the statute was to promote the merchant marine. But, the statute is too plain to permit of this type of construction, and in any event, the legislative history clearly establishes that the purpose of the statute, in so far as it had a purpose

other than a revenue purpose, was to aid Philippine merchants, including merchants of fuel oil, and not to aid or develop a merchant marine.

## ARGUMENT

### PART ONE.

### THIS COURT HAS JURISDICTION TO REVIEW THE JUDGMENT OF THE SUPREME COURT OF THE PHILIPPINE ISLANDS.

#### POINT I.

**The Philippine Tariff Act of 1909 was a statute of the United States.**

The status of the Philippine Tariff Act of 1909 as a statute of the United States was established in *Gsell* v. *Insular Collector of Customs,* 239 U. S. 93.[1]

The jurisdictional question is whether the Tariff Act of 1909 (as enacted by the Congress of the United States), although admittedly still in effect in the Philippine Islands (both at the time of the acts which constitute the subject matter of this suit, and at the present time) has lost its status as a statute of the United States. This depends upon the question whether the Congress had such an intention in enacting the Organic Act of 1916 and the Independence Act of 1934. We think it clear that neither was

[1]This Court's jurisdiction in the *Gsell* case rested upon L. 1902, Ch. 1369, Sec. 10, 32 Stat. 695, which was substantially identical with L. 1925 Ch. 229, Sec. 7, except that it provided for review upon appeal or by writ of error instead of by writ of *certiorari.*

intended to change the status of the Tariff Act of 1909 as a statute of the United States.

## POINT II.

**The Organic Act of 1916 did not convert pre-existing United States statutes into merely insular statutes.**

**(1) The Organic Act did not in terms alter the status of statutes of the United States.**

The Organic Act, enacted for the purpose of providing a more autonomous government for the Philippine Islands (L. 1916, Ch. 416, 39 Stat. 545), created a local legislature, and authorized it, with certain limitations, to alter, modify or repeal existing laws applicable to the Islands. The particular sections of the Organic Act upon which counsel for the respondent relied in his brief in opposition to petition for certiorari were sections 5, 6, 7, 8 and 10, which provide as follows:[2]

> "SEC. 5. That the statutory laws of the United States hereafter enacted shall not apply to the Philippine Islands, except when they specifically so provide, or it is so provided in this Act.
>
> "SEC. 6. That the laws now in force in the Philippines shall continue in force and effect, except as altered, amended, or modified herein, until altered, amended, or repealed by the legislative authority herein provided or by Act of Congress of the United States.
>
> "SEC. 7. That the legislative authority herein provided shall have power, when not inconsistent

[2] 39 Stat. 547-548; 48 U. S. C. A. § 1003, 1004, 1005, 1041, 1042.

with this Act, by due enactment to amend, alter, modify or repeal any law, civil or criminal, continued in force by this Act as it may from time to time see fit.

"This power shall specifically extend with the limitation herein provided as to the tariff to all laws relating to revenue and taxation in effect in the Philippines.

"SEC. 8. That general legislative power, except as otherwise herein provided, is hereby granted to the Philippine Legislature, authorized by this Act.

* * *

"SEC. 10. That while this Act provides that the Philippine Government shall have the authority to enact a tariff law the trade relations between the islands and the United States shall continue to be governed exclusively by laws of the Congress of the United States: Provided, That tariff acts or acts amendatory to the tariff of the Philippine Islands shall not become law until they shall receive the approval of the President of the United States * * *."

It is apparent that these provisions of the Organic Act did not *in terms* deprive the Tariff Act of 1909 of its haracter as a statute of the United States, for § 6 expressly reserved legislative power on the subject to the Congress of the United States, although conferring correlative power on the Philippine legislature.

**(2) The Organic Act was not intended to alter the status of statutes of the United States.**

The argument to the contrary misconceives the fundamental purpose of the Organic Act. Its preamble is expressive of a purpose to entrust legislative powers to the

local legislature, not by way of pre-empting the Congressional power, but only by way of educating the Philippine people for self-government, while retaining full ultimate jurisdiction and control at home. The preamble states, 39 Stat. 545:

> "Whereas it was never the intention of the people of the United States in the incipiency of the war with Spain to make it a war of conquest or for territorial aggrandizement; and
>
> "Whereas it is, as it always has been, the purpose of the people of the United States to withdraw their sovereignty over the Philippine Islands and to recognize their independence as soon as a stable government can be established therein; and
>
> "Whereas for the speedy establishment of such purpose it is desirable to place in the hands of the people of the Philippines as large a control of their domestic affairs as can be given them without, in the meantime, impairing the exercise of the rights of sovereignty by the people of the United States, in order that, by the use and exercise of popular franchise and governmental powers, they may be the better prepared to fully assume the responsibilities and enjoy all the privileges of complete independence."

This was a purpose *to prepare* the Philippine people for independence by authorizing them to legislate *to a certain extent,* while reserving to their fullest the *sovereign powers* of the people of the United States.

The Act, in addition to the provisions hereinabove quoted, contained in § 19 a provision that

> "All laws enacted by the Philippine Legislature shall be reported to the Congress of the United States, which hereby reserves the power and au-

thority to annul the same." (39 Stat. 551; 48 U. S. C. A. § 1054).

The significance both of § 6 and of § 19 of the Organic Act is apparent from the decision of this Court construing like provisions of the earlier Acts which conferred legislative power on the President and the Philippine Commission. In *Public Utility Commissioners* v. *Ynchausti & Co.*, 251 U. S. 401, at page 407, the opinion of Mr. Chief Justice White disposed of a similar argument as to non-existence of Congressional power:

> "The error which thus underlies the whole argument becomes more conspicuously manifest by recalling that Congress in the Act of 1904 expressly provided that the authority which that act gave should exist only until Congress should otherwise provide, and, besides, that before the passage of that act, the Act of July 1, 1902, c. 1369, §86, 32 Stat. 691, 712, provided "that all laws passed by the government of the Philippine Islands shall be reported to Congress, which hereby reserves the power and authority to annul the same."

And finally the Organic Act provided in § 31:

> "Sec. 31. That all laws or parts of laws applicable to the Philippines not in conflict with any of the provisions of this Act are hereby continued in force and effect." (39 Stat. 556; 48 U. S. C. A. § 1006.)

Had the Congress intended to change the holding of the *Gsell* case in the previous year, 239 U. S. 93, *supra*, it could easily have done so by providing at the end of § 31, "but as local laws of the Philippine Islands and not as statutes of the United States." But it did not so do.

**(3) The reservation of Congressional power in the Organic Act did not invalidate the limited grant to the Philippine Legislature.**

The Respondent's argument, in opposition to the petition for writ of certiorari, was that the Congressional *power was preempted* (*i.e.*, irrespective of the Congressional intent) by the delegation of limited power to the Philippine Legislature, because otherwise the division of power between the Congress and the Philippine Legislature would render the grant invalid as a delegation of legislative power (*cf. Panama Refining Co.* v. *Ryan,* 293 U. S. 388). But the power of the Congress to delegate legislative power in respect of the Philippines, while reserving a like power to itself, was recognized by this Court in *United States* v. *Heinszen & Company,* 206 U. S. 370, 384-385, as "a proposition which is not now open for discussion", the Court saying:

> "First. Whilst it is admitted that Congress had the power to levy tariff duties on goods coming into the United States from the Philippine Islands or coming into such islands from the United States after the ratification of the treaty, it is yet urged that as that body was without authority to delegate to the President the legislative power of prescribing a tariff of duties, it hence could not by ratification make valid the exercise by the President of a legislative authority which could not have been delegated to him in the first instance. But the premise upon which this proposition rests presupposes that Congress in dealing with the Philippine Islands may not, growing out of the relation of those islands to the United States, delegate legislative authority to such agencies as it may select, a proposition which

> is not now open for discussion. *Dorr* v. *United States,* 195 U. S. 138."

The same argument was inferentially rejected (in regard to Porto Rico) in *Downes* v. *Bidwell,* 182 U. S. 244, see pages 280-281.

That the creation by the Congress of a local legislature, and grant of power thereto, does not deprive the Congress of the reserved power itself to legislate for the territory in question, was recognized as early as *National Bank* v. *Yankton,* 101 U. S. 129, in which Mr. Chief Justice Waite said, at page 133:

> "Such a power is an incident of sovereignty, and continues until granted away. Congress may not only abrogate laws of the territorial legislatures, but it may itself legislate directly for the local government. It may make a void act of the territorial legislature valid, and a valid act void. In other words, it has full and complete legislative authority over the people of the Territories and all the departments of the territorial governments."

## POINT III.

**The Philippine Independence Act of 1934 did not convert pre-existing United States statutes into merely insular statutes.**

**(1) The Philippine Tariff Act of 1909 was not repealed by the Philippine Independence Act of 1934 or by the Philippine Constitution.**

The Philippine Independence Act of 1934 provided that the Philippines might adopt a new Constitution, and that

ten years thereafter the Islands should have complete and final independence, but that during the interim they should remain under a tutelage comparable to that existing under the Organic Act of 1916. Laws relating to the government of the Philippines and its administration were repealed, but all other laws of the United States were continued in force subject to alteration, amendment or repeal, either by the Philippine Legislature or by the Congress of the United States. The governing provision of the Act is §15:

> "Sec. 15. Except as in this Act otherwise provided, the laws now or hereafter in force in the Philippine Islands shall continue in force in the Commonwealth of the Philippine Islands until altered, amended, or repealed by the Legislature of the Commonwealth of the Philippine Islands *or by the Congress of the United States,* * * * Except as otherwise provided in this Act, all laws or parts of laws relating to the present government of the Philippine Islands and its administration are hereby repealed as of the date of the inauguration of the government of the Commonwealth of the Philippine Islands" (L. 1934, Ch. 84, Sec. 15, 48 Stat. 464, 48 U. S. C. A. § 1245; italics supplied).

The repealing clause is thus expressed to be inapplicable where "otherwise provided", and the Section provides that "the laws now or hereafter in force in the Philippine Islands shall continue in force * * * until altered, amended, or repealed by the legislature of the Commonwealth of the Philippine Islands *or by the Congress of the United States*".

The Independence Act also provided (in sub-division 6 of § 7 thereof, 48 Stat. 462, 48 U. S. C. A. § 1237) that:

> "Review by the Supreme Court of the United States of cases from the Philippine Islands shall be as now provided by law * * *."

Therefore, unless the Act deprived the Tariff Act of 1909 of its character as a statute of the United States, the jurisdiction of this Court was fully preserved.

The respondent's counsel argued, in opposition to the petition for writ of certiorari, that § 15 of the Independence Act had actually *repealed* the Tariff Act of 1909, his theory being that all tariff laws "relate to" the administration of government, and hence that the repealer in the Independence Act of "laws relating to the present government of the Philippine Islands and its administration" was fatal to the Tariff Act of 1909. But it is unthinkable that the Congress would have chosen this occult way of depriving the new Commonwealth of a principal source of revenue.

And when § 15 is read together with the Independence Act as a whole, it is clear that the repealer of laws relating to the government and its administration was in support of the preceding provisions which set up new governmental bodies in the Islands and provided for the mechanics of their functioning.

Counsel for the respondent then argued that Article XV, Section 2, of the Constitution of the Commonwealth of the Philippine Islands has worked such repeal, by providing that:

> "All laws of the Philippine Islands shall continue in force until the inauguration of the Commonwealth of the Philippines; thereafter, such laws shall remain operative, unless inconsistent with this Constitution, until amended, altered, modified, or repealed by the National Assembly * * *."

But this provision of the Constitution is open to only two possible constructions,—each inconsistent with the respondent's position. The Constitution either (1) did not purport to deal with laws of the United States, in which case they were not repealed; or else (2) it intended to include them within the phrase "laws of the Philippine Islands" (on the assumption that that phrase would cover all laws *in force* in the Islands), in which case they were expressly continued in effect.

The contrary presumption ,—that the Constitution intended to repeal all United States laws,—is certainly not a presumption which would be lightly indulged in (see *Wright* v. *Ynchausti & Co.*, 272 U. S. 640, 650-651),—and it is hardly conceivable that the framers of the Constitution, had they desired to repeal United States laws, would have been content to rely upon an affirmative provision for the continuance of Philippine laws as working by implication a repealer of United States laws.

**(2) Even if the Philippine Tariff Act of 1909 were so repealed, this case involves only drawbacks alleged to have been unlawfully withheld before 1934.**

The importation into the Philippines and the sale of fuel oil involved herein, the filing of the drawback entries with the respondent and the respondent's rejection thereof, all took place *before the enactment* of the Philippine Independence Act. The claims were rejected by the respondent on August 3, 1933 (R. 126). The Philippine Independence Act was not enacted until March 24, 1934 (48 Stat. 456).

Neither the character, the source, the authority nor the interpretation of the Philippine Tariff Act of 1909, in its

application to transactions in and before 1933, was affected by this subsequent independence legislation. And, assuming, as argued on behalf of the respondent, that the Philippine Tariff Act of 1909 was repealed by the Philippine Independence Act in March, 1934, and that it was then or thereafter reinstated as Philippine legislation, those effects occurring in 1934 and 1935 are without significance here except in so far as they throw into relief the fact that, in 1933, the Philippine Tariff Act of 1909 was a statute of the United States which had neither been repealed, nor reenacted, by the Philippine legislature.

The petitioner's right to the drawbacks here claimed had become vested property rights prior to the enactment of that legislation. Obviously, an independence act cannot have retroactive application. None of the provisions of the Philippine Independence Act are so expressed as to be retroactive, and upon unquestioned principles of construction they cannot be so applied to divest vested rights.

## POINT IV.

**Omission of the Philippine Tariff Act from the United States Code neither did, nor was intended to, deprive it of its character as a statute of the United States.**

Counsel for the respondent also relied, in their brief in opposition to petition for writ of certiorari, upon the fact that the Librarian of Congress did not include the Philippine Tariff Act in the Index to the Federal Statutes compiled pursuant to the Act of March 3, 1927 (44 Stat. 1401) and published in the United States Code. But the failure to include the Philippine Tariff Act in the Index as an

existing Statute at Large is of course of no greater significance than the failure to include it in the index of statutes *repealed,* as published in the same Code. See U. S. C. 1934, Table of Statutes Repealed, page 2403.

The purpose of the Code was simply to compile laws *general* in their nature:

> "The matter set forth in the edition of the Code of Laws of the United States current at any time shall, together with the then current supplement, if any, establish *prima facie* the laws of the United States, *general* and permanent in their nature, in force on the day preceding the commencement of the session following the last session the legislation of which is included" (U. S. C. Title 1, Sec. 54(a); matter in italics supplied).

Therefore, the entire contents of the Code are only *prima facie* evidence as to *general* and permanent laws and have no bearing upon the existence or character of *local laws.* This is emphasized by the following statement of Mr. Fitzgerald as Chairman of the Committee of the House of Representatives on Revision of the Laws:

> "Besides correcting errors and omissions in the codes [United States Code and District of Columbia Code] they can be further improved by the elimination of superfluous although not erroneous provisions. * * * A few provisions could well be omitted as having only local applicability and not being of general significance, although for the most part such provisions were rigidly excluded from both the United States Code and the District of Columbia Code. In fact, it is probable that more of these border-line cases have been improperly omitted than improperly included" (Congressional Record, 1931, p. 6817—matter in brackets supplied).

That the Philippine Tariff Act was omitted because it was local in nature and not because it had ceased to exist as a statute of the United States, is stated in the note to Sec. 1012, Title 48, U. S. C. A., as follows:

> "(Philippine tariff of 1909, omitted from the Code as being local in nature)."

## PART TWO.

## THIS DECISION OF THE SUPREME COURT OF THE PHILIPPINE ISLANDS READS INTO SECTION 21 OF THE PHILIPPINE TARIFF LAW A LIMITATION WHICH IS INCONSISTENT WITH ITS LANGUAGE, AND CONTRARY TO ITS PURPOSE.

The Act (36 Stat. 176, § 21) provides:

> "SEC. 21. That on all fuel imported into the Philippine Islands which is afterwards used for the propulsion of vessels engaged in trade with foreign countries, or between ports of the United States and the Philippine Islands, or in the Philippine coastwise trade, a refund shall be allowed equal to the duty imposed by law upon such fuel, less one per centum thereof, which shall be paid under such rules and regulations as may be prescribed by the insular collector of customs."

The Philippine Secretary of Justice (R. 127) and the Judge of the Court of First Instance (R. 129-130) have read into this statutory provision, after the word "vessels", the phrase 'of Philippine registry".

The majority opinion in the Philippine Supreme Court has widened the limitation thus attempted to be read into

the statute, by adding thereto vessels of American registry (R. 142).

The decision thus directly contradicts the clause in the Act granting a drawback upon *"all* fuel * * * used for the propulsion of *vessels* * * *."*

**(1) The Insular Supreme Court's construction of the Act in this respect is inconsistent with the plain terms of the Act.**

The Act is entirely clear and unambiguous, both in its language and in its application to the facts. In the words of this Court in *St. Louis & Iron Mountain Railway* v. *Taylor,* 210 U. S. 281, 294, 295:

> "We have nothing to do but to ascertain and declare the meaning of a few simple words in which the duty is described. * * * There is no escape from the meaning of these words. Explanation cannot clarify them, and ought not to be employed to confuse them or lessen their significance."

In the absence of ambiguity, there is no room for construction. *United States* v. *Hill,* 248 U. S. 420, 424; *Adams Express Company* v. *Kentucky,* 238 U. S. 190, 199.

The reading of this limitation into the statute amounts to an amendment thereof. This is not construction, but in effect new legislation. It was beyond the power of the Philippine Supreme Court. *Petri* v. *Creelman Lumber Co.,* 199 U. S. 487, 495.

Even if the omission of such a restriction upon the operation of the statute had been in some sense at variance with its purpose, or had resulted in substantial hardship

to respondent (which was not the case), the Court could not have placed this construction upon it contrary to the clear meaning of its language. *Schlitz* v. *United States,* 181 U. S. 584, 589:

> "It may be entirely true that, if this drawback be not allowed, the duties upon the bottles and corks will preclude the manufacturer from competing in foreign markets with foreign brewers, since he must necessarily export his beer in imported bottles, while his foreign competitor may use bottles manufactured in his own country. Yet this apparent hardship will not authorize us to do violence to the clear language of the statute."

An apt illustration of the principle that such a limitation cannot be read into a statute by construction is found in the provision in the comparable Act of June 19, 1886 (24 Stat. 81, Sec. 10), referred to in the majority opinion in the Insular Supreme Court (R. 147, 148). That provision limited to vessels of the United States the provision in the earlier Act of March 3, 1883 (22 Stat. 488, 511, Schedule N) for a drawback in favor of coal used for fuel on board all vessels propelled by steam. The amendment of 1886 constituted new legislation, which was held not to be entitled to a retroactive application. *Cunard S. S. Co.* v. *United States,* 25 Ct. Cl. 428; *cf. Kennedy* v. *United States,* 23 Ct. Cl. 363. It should be observed also that this particular provision for drawback was not reenacted in the Tariff Law of 1890 (26 Stat. 600), but was repealed by implication (*United States* v. *Allen,* 163 U. S. 499). The amending limitation upon the right to a drawback (24 Stat. 81) was thus left with nothing to apply to. There is no

conceivable basis for applying it to the Philippine Tariff Law of 1909, which was enacted some nineteen years later.*

We turn now to the meaning of the word "vessels".

As pointed out in the minority opinion of the Philippines Supreme Court (R. 150), that Court had itself held in regard to this very section (§ 21) of the Tariff Act of 1909 in *Yangso* v. *Aldanese*, 51 Phil. 348, 351:

> "It must be understood that Congress has given the words used in its Act of 1909 the same meaning they have in its legislation as construed by the courts of the United States."

Now the word "vessels" had not merely been construed by "the courts of the United States" in the *Kennedy* case, *supra*, 23 Court of Claims Reports 363, but the Congress has itself given an express definition to the term as used in the customs laws (42 Stat. 948, 19 U. S. C. A. § 231)[1]:

> "(a) *Vessel.*—The word 'vessel' includes every description of water craft or other contrivance used, or capable of being used as a means of transportation in water, or in water and in air."

There is here no limitation to vessels of a particular registry.

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*In the Tariff Act of the United States of 1909 it was provided that coal and mineral oils should be taxed at a stated rate (36 Stat. 140), except that there appeared on the free list:

> "535. Coal, anthracite, and coal stores of American vessels, but none shall be unloaded." (36 Stat. 76.)

It should be observed that the provisions of the Act both with respect to the free list and the dutiable list applied to the United States and its possessions "except the Philippine Islands and the Islands of Guam and Tutuila." (36 Stat. 11, 71.)

[1]Amended in 1935 in a manner not here relevant (19 U. S. C. A. § 1401).

Had the Congress intended the benefit of the drawback to be confined to ships of Philippine or of United States registry, it could have made the discrimination in language similar to that employed by it in the same statute in providing that the following, among other articles, should be free of duty (§ 1, Art. 348, 36 Stat. 173):

> "348. Repairs to *vessels documented in the Philippine Islands or regularly plying in Philippine waters,* made in foreign countries, upon proof, satisfactory to the collector of customs, that adequate facilities for such repairs are not afforded in the Philippine Islands."

The intended contrast between vessels of those particular classes, and vessels generally, is brought into relief by the fact that the very next Article relates generally to

> "349. Articles and materials actually used in the construction, equipment or repair within the Philippine Islands of *vessels,* their machinery, tackle, or apparel, subject to such restrictions, conditions, and regulations as the insular collector of customs may provide."

And again, in levying duties on boats or other water craft, it is provided (36 Stat. 159):

> "200. Boats, launches, lighters, and other water craft, set up or knocked down, imported into the Philippine Islands, and cost of repairs made in foreign countries to vessels, or to parts thereof, *documented for the Philippine coastwise trade or plying exclusively in Philippine waters* and for which repairs adequate facilities are afforded in the Philippine Islands, fifty per centum ad valorem."

The sections of the statute may, of course, be appropriately construed together, and the omission in § 21, as in Article 349, of a limitation to vessels of Philippine, or American, registry must be recognized as intended, in view of the specific provisions of Articles 200 and 348.

And an intention generally to apply the tariff to articles to be consumed in, or to remain in, the Philippines, as distinct from those to be re-exported, is indicated in the preamble to the Act, wherein it was resolved by the Congress that the rates of import duty be levied, collected and paid upon all articles entering the jurisdiction of the Islands

> "either with intent to unlade therein, or which, after such entering, are consumed therein, or become incorporated into the general mass of property within said islands" (36 Stat. 130).

**(2) The Philippine Supreme Court's construction of the Act in the respect complained of is contrary to the purpose for which it was enacted.**

The Philippine Supreme Court's decision is based squarely on the assumption (for which it has cited no reason or authority whatever) that the purpose of this drawback provision was "to build up and protect a national merchant marine engaged in said trade" (R. 138, 139). This was a revision of the view, expressed by the Court of First Instance of Manila (R. 130), and the Secretary of Justice (R. 127), that the drawback applied only to fuel sold to vessels of Philippine registry.

The views thus expressed overlooked the consideration that, as an historical fact, the purpose of allowing drawbacks upon imported goods, later exported, is the protection of *merchants* engaged in foreign trade, and of the con-

trasting fact that aid to the merchant marine (when granted) has not been by a provision of drawbacks or other customs legislation, but has been in the form of government mail contracts, construction bounties, loans upon favorable terms and similar benefits in the nature of subsidies,[1] and the like.

The view of the Philippine court is thus directly opposed to the conception of the protection of home industries which so largely underlay American tariff policy, particularly at this period (1909), and, specifically, to the theory and purpose of the Paine-Aldrich tariff legislation, of which the Philippine tariff law of 1909 was a part, or an adjunct.

The history of this proposed Philippine tariff legislation prior to its enactment is set forth in H. R. Document No. 14 of the Sixty-first Congress, First Session. The bill was presented to the Congress supported by a short message by President Taft, dated October 14, 1909, based upon a memorandum, signed by Brigadier General C. R. Edwards, Chief of the Bureau of Insular Affairs, and directed to the Secretary of War. President Taft's message recommended that the bill be passed "as one incidental to and required by the passage of the Paine bill." He further stated of the bill:

> "It is drawn with a view to preserving to the islands as much customs revenue as possible, *and to protect in a reasonable measure those industries which now exist in the islands.*" (italics ours.)

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[1]Message of President Roosevelt, dated March 4, 1935, to the 74th Congress, 1st Session, and annexed Report of the Postmaster General, in H. R. Document No. 118.

Report No. 713 to the Senate, 74th Congress, 1st Session, and annexed Senate Document No. 60, concerning Merchant Marine Policy and Shipping and Shipbuilding Subsidies.

The letter of Brigadier General Edwards to the Secretary of War, which is a part of Document No. 14 and which is referred to above, states that the bill is intended as a revision and simplification of the existing tariff law of the Philippine Islands, making it conform as nearly as may be to that of the United States. He further says:

> "The purpose of the bill is also to meet the conditions which will arise under the free-trade provisions of the Paine bill, to save as much customs revenue as possible to the islands under those conditions, and at the same time to protect in reasonable measure the *paying industries now operating in the Islands.*
>
> "It will be understood that the results of the free admission of American goods into the Philippine Islands must revolutionize business in the Philippines, and unless the adoption of that policy is accompanied by a revision of the present Philippine tariff it will be disastrous to some important industries in the islands and also result in such serious loss to the customs revenue as to embarrass the Philippine government." (italics ours.)

A reading of the proposed bill will show that it was passed substantially as presented. It contained two principal drawback provisions. The first (Section 21, proposed as Section 23) is that here under discussion. The second authorized a drawback of the tariff paid upon imported articles which were later exported, either in the same form or as constituent parts of manufactured articles (Section 22; proposed as Section 24; Congressional Document No. 14, pp. 56, 57).

Assuming, as we are both entitled and required to do, that the views of the sponsors of the legislation were adopted by the Congress, it is apparent beyond any reason-

able doubt that the purpose of the Act, in so far as it had a purpose over and above that of raising revenue, was not to aid transportation or commerce, but was to benefit and protect the industries then existing on the Islands.[2]

The Court may also take judicial cognizance of the fact that the Philippine Islands in 1909 had no merchant marine of any sort. Their first marine registry law was not enacted until many years later; and even in 1928 vessels of Philippine registry were engaged only in the coastwise trade, did not engage in foreign trade at all, and carried only a nominal portion of the goods shipped to and among the Islands.[3]

The protective tariff policy expressed in the Tariff Act of 1909 has never been subservient to the requirements of the merchant marine (either Philippine or American), nor related to it. The decisions of the Philippine courts, here appealed from, to the contrary, are totally without foundation.

Respectfully submitted,

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GEORGE M. BILLINGS,
HUGH A. FULTON,
*On the brief.*

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[2]See *Hampton* v. *United States,* 276 U. S. 394, and specifically regarding drawbacks as instruments of the protection policy, *Campbell* v. *United States,* 107 U. S. 407, 413, *Tide Water Oil Co.* v. *United States,* 171 U. S. 210, 216, and *Schlitz* v. *United States,* 181 U. S. 584, 586.

[3]See hearings on October 18-24, 1929, before the Subcommittee on Commerce of the United States Senate Concerning the Extension of the Coastwise Shipping Laws of the United States to the Philippine Islands; Seventy-first Congress, First Session; held pursuant to S. Res. 130.

FILE COPY

IN THE

# Supreme Court of the United States

OCTOBER TERM, 1935

No. 674

THE ASIATIC PETROLEUM COMPANY
(Philippine Islands), Limited,
*Petitioner,*

vs.

THE INSULAR COLLECTOR OF CUSTOMS,
*Respondent.*

## BRIEF FOR RESPONDENT

LEE S. TILLOTSON,
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SERAFIN P. HILADO,
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PRESS OF W. F. ROBERTS COMPANY, WASHINGTON, D. C.

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IN THE

# Supreme Court of the United States

OCTOBER TERM, 1935

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No. 674

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THE ASIATIC PETROLEUM COMPANY
(Philippine Islands), Limited,
*Petitioner,*

vs.

THE INSULAR COLLECTOR OF CUSTOMS,
*Respondent.*

---

## BRIEF FOR RESPONDENT

### THE CASE

Petition for writ of certiorari to the Supreme Court of the Philippine Islands to review the final judgment of that court entered on July 26, 1935, affirming the judgment of the Court of First Instance of Manila dismissing petitioner's application for a writ of mandamus to require the respondent to "liquidate" certain "drawback entries" filed by petitioner under section 21, Philippine Tariff Act of 1909 (36 Stat. 130, 176) for import duties paid by petitioner on certain quantities of fuel oil imported into the Philippine Islands and sold to, and used for the propulsion

of, certain vessels "of foreign registry" engaged in commerce between the Philippine Islands and "foreign countries."

**OPINIONS BELOW**

The judgment of the Insular Supreme Court (R. 163), affirming the judgment of the Court of First Instance, is based upon its opinion (R. 134-143) to the effect that customs drawbacks are not allowable under section 21 of the Philippine Tariff Act of 1909 on account of fuel oil used for the propulsion of vessels engaged in trade with foreign countries *except vessels of American or Philippine registry*. (R. 142.)

**JURISDICTION**

The Philippine Independence Act of March 24, 1934 (48 Stat. 456, 461, 462), contains the following provision:

> Sec. 7. Until the final and complete withdrawal of American sovereignty over the Philippine Islands * * * (6) Review by the Supreme Court of the United States of cases from the Philippine Islands shall be as now provided by law; and such review shall also extend to all cases involving the constitution of the Commonwealth of the Philippine Islands.

The Court is requested to take judicial notice of the following facts:

(1) That the Philippine Independence Act of March 24, 1934, was accepted by concurrent resolution of the Philippine Legislature, and thereby became effective, on May 1, 1934 (see sec. 17, Act of

March 24, 1934, 48 Stat. 465; Official Gazette, Philippine Islands, Vol. XXXIII, No. 79, Jul. 2, 1935).

(2) That pursuant to the provisions of said Independence Act the Government of the Commonwealth of the Philippines, under its own Constitution adopted by the people of the Philippines on May 14, 1935 (see Official Gazette, Philippine Islands, Vol. XXXIII, No. 92, Aug. 1, 1935), was duly inaugurated on November 15, 1935, by proclamation (No. 2148) of the President of the United States.

No question under the Philippine Constitution is involved in the case at bar. The jurisdiction of this court rests, therefore, upon sections 7 and 8 (a) of the Act of February 13, 1925 (43 Stat. 936, 940), which read:

> Sec. 7. That in any case in the Supreme Court of the Philippine Islands wherein the Constitution, or any statute or treaty of the United States is involved, or wherein the value in controversy exceeds $25,000, or wherein the title or possession of real estate exceeding in value the sum of $25,000 is involved or brought in question, it shall be competent for the Supreme Court of the United States, upon the petition of a party aggrieved by the final judgment or decree, to require, by certiorari, that the cause be certified to it for review and determination with the same power and authority, and with like effect, as if the cause had been brought before it on writ of error or appeal; and, except as provided in this section, the judgments and decrees of the Supreme Court of the Philippine Islands shall not be subject to appellate review.
>
> Sec. 8. (a) That no writ of error, appeal, or writ of certiorari, intended to bring any judg-

ment or decree before the Supreme Court for review shall be allowed or entertained unless application therefor be duly made within three months after the entry of such judgment or decree, excepting that writs of certiorari to the Supreme Court of the Philippine Islands may be granted where application therefor is made within six months: *Provided*, That for good cause shown either of such periods for applying for a writ of certiorari may be extended not exceeding sixty days by a justice of the Supreme Court.

THE RESPONDENT CHALLENGES THE JURISDICTION OF THIS COURT UPON THE GROUND THAT NO QUESTION UNDER THE CONSTITUTION, OR ANY STATUTE OR TREATY OF THE UNITED STATES IS INVOLVED, AND THE VALUE IN CONTROVERSY IS LESS THAN $25,000.

No question involving the Constitution or any treaty of the United States has been raised here, and the respondent contends that:

*Section 21 of the Philippine Tariff Act of 1909 is an insular law and not a statute of the United States within the purview of section 7 of the Act of February 13, 1925, supra.*

## ARGUMENT ON QUESTION OF JURISDICTION

### I.

### UNDER THE PROVISIONS OF THE PHILIPPINE ORGANIC ACT OF AUGUST 29, 1916 (39 STAT. 545), THE LAW HERE IN QUESTION (SEC. 21, PHILIPPINE TARIFF ACT OF 1909) CEASED TO BE A STATUTE OF THE UNITED STATES AND BECAME AN INSULAR LAW SUBJECT TO AMENDMENT OR REPEAL BY THE PHILIPPINE LEGISLATURE

The pertinent provisions of the Organic Act are as follows (39 Stat. 547, 548):

Sec. 5. That the statutory laws of the United States hereafter enacted shall not apply to the

Philippine Islands, except when they specifically so provide, or it is so provided in this Act.

Sec. 6. That the laws now in force in the Philippines shall continue in force and effect, except as altered, amended, or modified herein, *until altered, amended, or repealed by the legislative authority herein provided* or by Act of Congress of the United States. (Emphasis supplied.)

Sec. 7. That the legislative authority herein provided shall have power, when not inconsistent with this Act, by due enactment to amend, alter, modify, or repeal any law, civil or criminal, continued in force by this Act as it may from time to time see fit.

This power shall specifically extend with the limitation herein provided as to the tariff to all laws relating to revenue and taxation in effect in the Philippines.

Sec. 8. That general legislative power, except as otherwise herein provided, is hereby granted to the Philippine Legislature, authorized by this Act:

* * * * *

Sec. 10. That while this Act provides that the Philippine Government shall have the authority to enact a tariff law the trade relations between the islands and the United States shall continue to be governed exclusively by laws of the Congress of the United States: *Provided,* That tariff acts or acts amendatory to the tariff of the Philippine Islands shall not become law until they shall receive the approval of the President of the United States * * *.

The purpose of the Organic Act as expressed in its title was, *inter alia,* "to provide a more autonomous government for those islands." It was the

manifest intent by the provisions of the act above cited, to change the character of the laws then in force, which had been enacted by the Congress of the United States for the government of the Philippines, from Federal statutes to Insular laws, subject to amendment or repeal by the Insular Legislature. This must be so for Congress cannot delegate its legislative powers. *See Panama Refining Co.* vs. *Ryan,* decided by this Court January 7, 1935 (293, U. S. 388) where this principle was reiterated as follows:

> "The Congress manifestly is not permitted to abdicate, or to transfer to others, the essential legislative functions with which it is thus vested."

A careful examination of the United States Statutes at Large (Vols. 39 to date) fails to disclose any modification, amendment, or repeal of any portion of the Philippine Tariff Act of 1909 by the Congress of the United States since the passage of the Philippine Organic Act of 1916 (39 Stat. 545) except as to section 12 (36 Stat. 173) relating to trade relations between the Philippines and the United States, the control of which was specifically reserved by Congress in section 10 of the Organic Act above cited (39 Stat. 548). See Act of June 17, 1930 (46 Stat. 685, U. S. C. A. 19: 1301).

During the same period said Tariff Act has been amended by the Philippine Legislature with approval of the President of the United States by not less than nineteen separate acts (See Philippine Public Laws, Vol. 29, table at pages CIX and CX)

the earliest of which (No. 2778) was passed May 6, 1918.

The Philippine Tariff Act is not included in the Index to the Federal Statutes published pursuant to the Act of March 3, 1927 (44 Stat. 1401), and no part of it, except that relating to trade relations with the United States above cited, is embodied in the Code of Laws of the United States of America. See U. S. C. 1934, Table of Statutes at Large, pages 2313 and 2360. See also, note to section 1012, title 48, U. S. C. A. as follows:

> "(Philippine tariff of 1909, omitted from the Code as being local in nature)."

The entire administration of the Act is vested in the insular authorities. Section 25 (36 Stat. 177) reads:

> Section 25. That the insular collector of customs shall, subject to the approval of the secretary of the department having jurisdiction over the customs service, make all rules and regulations necessary to enforce the provisions of this Act.

Attention is invited to the fact that the case of *Gsell* vs. *Insular Customs Collector* (239 U. S. 93), where it was held by this Court that the Philippine Tariff Act of August 5, 1909 "is a statute of the United States," was decided on November 15, 1915, several months prior to the passage of the Organic Act. The specific question is not believed to have been raised in any other case in this Court either before or since the Organic Act of 1916 became effective. No jurisdictional question was raised

in *Wright* vs. *Ynchausti and Company* (272 U. S. 640) for the reason that, in that case, the amount in controversy was more than $25,000, viz., 159,960 pesos.

## II.

### UPON THE INAUGURATION OF THE GOVERNMENT OF THE COMMONWEALTH OF THE PHILIPPINES THE STATUTE IN QUESTION WAS REPEALED AS A STATUTE OF THE UNITED STATES

The Philippine Independence Act of March 24, 1934 (48 Stat. 456, 464) provides:

> Sec. 15. Except as in this Act otherwise provided, the laws now or hereafter in force in the Philippine Islands shall continue in force in the Commonwealth of the Philippine Islands until altered, amended, or repealed by the Legislature of the Commonwealth of the Philippine Islands or by the Congress of the United States * * *. Except as otherwise provided in this Act, all laws or parts of laws relating to the present government of the Philippine Islands and its administration are hereby repealed as of the date of the inauguration of the government of the Commonwealth of the Philippine Islands.

Section 2, Article XV of the Constitution of the Commonwealth of the Philippines provides that:

> All laws of the Philippine Islands shall continue in force until the inauguration of the Commonwealth of the Philippines; thereafter, such laws shall remain operative, unless inconsistent with this Constitution, until amended, altered, modified, or repealed by the National Assembly * * *.

It will be noted that by the repealing clause of section 15 of the Independence Act above cited, ex-

cept as otherwise provided in that act, all laws or parts of laws relating to the former government of the Philippine Islands *and its administration* were repealed on November 15, 1935, when the Commonwealth Government was inaugurated.

The Tariff Act of 1909 was an act to "raise revenue" for the Philippine government—clearly an act relating to the *administration* of that government—and, were it not for the saving clause in the first sentence of said section 15, would be wholly repealed. The saving clause has the effect to continue the Tariff Act, and all laws of like nature, in force, *as laws of the Commonwealth of the Philippines* until the Philippine National Assembly, or the Congress of the United States, otherwise provides. The Congress of the United States has not legislated upon the subject of Philippine tariffs since the Independence Act was passed (nor indeed, as indicated under I above, since the Organic Act of 1916), and by section 2, Article XV, of the Philippine Constitution, the statute involved in this case has been, in effect, adopted as a law of the Commonwealth of the Philippines.

*It follows that the interpretation placed upon the statute in question by the Supreme Court of the Philippines is not subject to review by this Court.*

## ARGUMENT UPON THE MERITS

### I.

### IF THE COURT TAKES JURISDICTION, THE QUESTION INVOLVED IS OF PURELY LOCAL CONCERN, AND THIS COURT, THEREFORE, WILL NOT OVERRULE THE LOCAL TRIBUNAL UNLESS ITS DECISION IS CLEARLY ERRONEOUS

*Santa Fe Central Ry. Co.* vs. *Friday,* 232 U. S. 694.
*Nadal* vs. *May,* 233 U. S. 447.
*Villanueva* vs. *Villanueva,* 239 U. S. 293.
*Cardona* vs. *Quinones,* 240 U. S. 83.
*Ker* vs. *Couden,* 223 U. S. 268.
*Ibanez* vs. *Hongkong Banking Corp.,* 246 U. S. 627.
*Philippine Sugar etc. Co.* vs. *Philippine Islands,* 247 U. S. 385.
*Phoenix Ry. Co.* vs. *Landis,* 231 U. S. 578.

The terms "local concern," or "local law," as used in the authorities above cited are not confined, in application, to questions arising under laws enacted by the local legislature.

*Santa Fe Central Ry. Co.* vs. *Friday, supra,* involved the jurisdiction of the courts of the territory of New Mexico over an action brought under the Federal Employer's Liability Act of 1906 (34 Stat. 232).

In *Ker* vs. *Couden, supra,* the question involved arose under Spanish law and the decisions of the Courts of Spain.

It is the established doctrine of this Court that, in the absence of clear error, decisions of the insular courts will not be disturbed unless there is involved some broad question, such as the rights of persons or property under the organic laws (see *In Yu Cong Eng* vs. *Trinidad,* 271 U. S. 500), international re-

lations (see *Ingenohl* vs. *Olsen and Co.*, 273 U. S. 541), or the like.

In *Phoenix Ry. Co.* vs. *Landis, supra,* this Court speaking through Mr. Justice Hughes, said:

> "This Court has frequently stated that it is disposed to accept the construction which the territorial court has placed upon a local statute." (231 U. S. 579, citing *Sweeney* vs. *Lomme,* 22 Wall. 208, 213; *Fox* vs. *Haarstick,* 156 U. S. 674, 679; *Northern Pacific R. R. Co.* vs. *Hambly,* 154 U. S. 349, 361; *Copper Queen Mining Co.* vs. *Arizona Board,* 206 U. S. 474, 479; *Lewis* vs. *Herrera,* 208 U. S. 309, 314; *English* vs. *Arizona,* 214 U. S. 359, 361; *Santa Fe County* vs. *Coler,* 215 U. S. 296, 305; *Albright* vs. *Sandoval,* 216 U. S. 331, 339; and *Clason* vs. *Matko,* 223 U. S. 646, 653).

In practically all the precedents cited the construction placed upon the statutes in question by the lower courts was not free from doubt.

The case of *English* vs. *Arizona, supra,* is particularly applicable here for the reason that the statute involved was a revenue law. In that case the Court held (quoting from the headnote) that:

> "Where there is doubt as to the construction of a statute of a Territory this court leans towards the construction given by the Supreme Court of the Territory * * * and in this case this court accepts the decision of the Supreme Court of Arizona in construing a revenue statute of that Territory."

*The Respondent contends that, under the established doctrine of this Court, as enunciated in the*

*precedents above cited, in the circumstances of this case, the construction placed upon the statute in question by the insular courts should be accepted.*

## II.

**REPLYING TO PETITIONER'S "REASONS FOR GRANTING THE WRIT" (PETITIONER'S BRIEF, PP. 5-7) THE RESPONDENT SAYS:**

1. (Petitioner's Brief, p. 5). Decisions of the United States Court of Claims are not binding upon the Supreme Court of the Philippine Islands.

The United States Supreme Court has no jurisdiction to review a decision of the Philippine Supreme Court upon the ground merely that such decision is in conflict with a decision of a court in another jurisdiction.

There is no "reviewable conflict" here. The decision sought to have reviewed was rendered under a law of the Philippine Islands. The *Kennedy* case (23 Ct. Cl. 363), cited by petitioner, arose under a Federal statute which had no application in the Philippines.

This Court has in several instances adopted the construction placed upon territorial laws by territorial courts though not in harmony with the decisions of courts of other jurisdictions as to the meaning of similar statutes. *Copper Queen Mining Co.* vs. *Arizona Board, supra* (206 U. S. 474, 479); *Lewis* vs. *Herrera, supra* (208 U. S. 309, 314).

In *Ker* vs. *Couden, supra,* (223 U. S. 268, 279) the Court, speaking of "the respect that we must feel for the concurrent opinion of both the courts below,"

remarked that "of course we are dealing with the law of the Philippines, not with that which prevails in this country."

2. (Petitioner's Brief, p. 6). No federal question is involved here. Whether the statute under consideration was intended to "foster and give impetus to the establishment and promotion in these Islands of a merchant marine," or to "aid local manufacture and trade," its application and effect are purely local—more so, indeed, under the interpretation contended for by petitioner than under that given it by the insular courts.

The case of *Campbell* vs. *U. S.* (107 U. S. 407) cited by petitioner to this point, arose under a statute enacted in 1861, long since superseded, and having no relation in fact or principle to the Philippine Tariff Act of 1909. Likewise, *Swan* vs. *Finch* (190 U. S. 143) also cited by petitioner in this connection, involved a statute long since obsolete, not applicable to the Philippines.

3. (Petitioner's Brief, p. 7). This point was not raised in the Court of First Instance, nor in the Supreme Court until after its decision was rendered (R. 134, 154). This matter is not covered in the "Stipulation of Facts" (R. 28).

In the statement of facts in petitioner's brief (pp. 3, 4) it is claimed that the insular courts were required by section 275 of the Philippine Code of Civil Procedure to take judicial notice of the "earlier ruling" of the Insular Collector of Customs. However that may be, the record does not affirmatively show

what such "earlier ruling" was. The point, therefore, is not before this Court. It is purely a matter of speculation.

Respectfully submitted

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# SUPREME COURT OF THE UNITED STATES.

No. 674.—October Term, 1935.

The Asiatic Petroleum Company, (Philippine Islands), Limited, Petitioner, *vs.* The Insular Collector of Customs. } On Writ of Certiorari to the Supreme Court of the Philippine Islands.

[March 30, 1936.]

Mr. Justice Roberts delivered the opinion of the Court.

The petitioner seeks review of a decision of the Supreme Court of the Philippine Islands which construed Section 21 of the Philippine Tariff Act of 1909.[1] The reasons assigned are the importance of the question involved and conflict with a decision of the Court of Claims under a statute of similar import. The respondent urges that this Court is without jurisdiction to issue the writ, and if it has jurisdiction, should affirm the judgment.

The section in question provides:

"Sec. 21. That on all fuel imported into the Philippine Islands which is afterwards used for the propulsion of vessels engaged in trade with foreign countries, or between ports of the United States and the Philippine Islands, or in the Philippine coastwise trade, a refund shall be allowed equal to the duty imposed by law upon such fuel, less one per centum thereof, which shall be paid under such rules and regulations as may be prescribed by the insular collector of customs."

During the period between June 15, 1932, and April 15, 1933, the petitioner imported into the Philippine Islands fuel oil, paid the prescribed duties thereon, and, in turn, made sales to agents of foreign shipping concerns with the agreement that drawbacks of customs duties paid on the quantities so sold were to be for petitioner's account. The oil was put aboard vessels of British, Swedish, Dutch, Danish and Norwegian registry and used for their propulsion while engaged in trade between the Islands and foreign countries. The petitioner filed with the respondent certificates of the sales; the Surveyor of the Port of Manila superintended the transfer to each vessel and, in his return to the respondent, certified the correct weight of each lading. The petitioner then presented drawback entries and requested a refund of

[1] 36 Stat. 130, 176.

duties paid, as provided by Section 21 of the Tariff Act. The respondent refused to authorize or pay the drawbacks on the ground that they are allowable only in respect of fuel imported and sold for use by vessels of Philippine registry. The petitioner applied to the Court of First Instance of Manila for a mandamus requiring the respondent to sign and issue the necessary warrants for refund of tax. The court denied the writ. Upon appeal, the Supreme Court held that the section applied only to fuel used by vessels of American or Philippine registry and affirmed the judgment.

*First.* This court has jurisdiction. The relevant statute is that of February 13, 1925:[2]

"That in any case in the Supreme Court of the Philippine Islands wherein the Constitution, or any statute or treaty of the United States is involved, or wherein the value in controversy exceeds $25,000, or wherein the title or possession of real estate exceeding in value the sum of $25,000 is involved or brought in question, it shall be competent for the Supreme Court of the United States, upon the petition of a party aggrieved by the final judgment or decree, to require, by certiorari, that the cause be certified to it for review and determination . . . . ."

The provision is continued in force by the Philippine Independence Act.[3]

It is incontestable that the Tariff Act of 1909 as enacted by Congress was a statute of the United States within the meaning of the Act of 1925 and that this court would have jurisdiction to review a decision involving its application,[4] were it not for certain provisions of the Act of 1916 for the government of the Islands.[5] The claim is that these repealed the Tariff Act as a law of the United States, converted it into a law of the Philippine Islands, and thus abolished our jurisdiction to review the judgment in question. The argument is grounded upon Sections 5, 6, 7, 8, and 10 of the organic act, which are copied in the margin.[6] Respondent points

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[2] C. 229, Sec. 7, 43 Stat. 936, 940.

[3] March 24, 1934. Sec. 7 (6), C. 84, 48 Stat. 456, 462; U. S. C. Tit. 48, Sec. 1237. "Review by the Supreme Court of the United States of cases from the Philippine Islands shall be as now provided by law . . . . ."

[4] *Gsell* v. *Insular Collector of Customs*, 239 U. S. 93. At the time of this decision the appellate jurisdiction of this Court was governed by the Act of July 1, 1902, C. 1369, Sec. 10, 32 Stat. 691, 695, which was substantially identical with the Act of 1925, Sec. 7, except that it provided for review upon appeal or by writ of error instead of by certiorari.

[5] Aug. 29, 1916; C. 416, 39 Stat. 545.

[6] "Sec. 5. That the statutory laws of the United States hereafter enacted shall not apply to the Philippine Islands, except when they specifically so provide, or it is so provided in this Act.

out that the effect of these sections is to give the Philippine Legislature concurrent power with Congress to amend, alter, or repeal laws of the United States effective in the Islands, including tariff laws, with the one exception that in such tariff laws trade relations between the Islands and the United States are to continue to be governed exclusively by congressional legislation. Since 1916 the Tariff Act of 1909 has been repeatedly amended by the local legislature with the approval of the President of the United States, and the contention is that although Section 21 has never been amended or repealed, the Act of 1916 and the action taken by the Philippine Legislature thereunder have converted the Tariff Act into a local law and stripped it of its character as an act of Congress. We do not agree. Section 21 derives force from the legislative action of Congress. Neither the provisions of the organic act nor the amendment of other sections by the Philippine Legislature changed the source of its authority. The erection of a local legislature in a territory or a possession and the grant of legislative power do not deprive Congress of the reserved power to legislate for the territory or possession, or abrogate existing congressional legislation in force therein.[7]

It is argued that Section 15 of the Independence Act[8] has repealed the Act of 1909. This section is, in part,—

"Except as otherwise provided in this Act, all laws or parts of laws relating to the present government of the Philippine Islands and its administration are hereby repealed as of the date of the

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"Sec. 6. That the laws now in force in the Philippines shall continue in force and effect, except as altered, amended, or modified herein, until altered, amended, or repealed by the legislative authority herein provided or by Act of Congress of the United States.

"Sec. 7. That the legislative authority herein provided shall have power, when not inconsistent with this Act, by due enactment to amend, alter, modify, or repeal any law, civil or criminal, continued in force by this Act as it may from time to time see fit.

"This power shall specifically extend with the limitation herein provided as to the tariff to all laws relating to revenue and taxation in effect in the Philippines.

"Sec. 8. That general legislative power, except as otherwise herein provided, is hereby granted to the Philippine Legislature, authorized by this Act.

. . . . . .

"Sec. 10. That while this Act provides that the Philippine government shall have the authority to enact a tariff law the trade relations between the islands and the United States shall continue to be governed exclusively by laws of the Congress of the United States: *Provided*, That tariff acts or acts amendatory to the tariff of the Philippine Islands shall not become law until they shall receive the approval of the President of the United States . . . ."

[7] Compare *National Bank* v. *County of Yankton*, 101 U. S. 129.

[8] Mar. 24, 1934, c. 84, Sec. 15; 48 Stat. 456, 464.

inauguration of the government of the Commonwealth of the Philippine Islands."

The respondent contends that tariff acts belong to the administration of government and are within the scope of the repeal. But we think that when the phraseology of the Independence Act is viewed in its setting and is compared with Section 2 of Article XV of the Constitution of the Commonwealth of the Philippine Islands, continuing all laws of the Islands in force until the inauguration of the Commonwealth and thereafter until amended, altered, modified, or repealed by the National Assembly, it becomes evident that laws relating to such subjects as the tariff were not repealed but only those dealing with administrative agencies and their procedure which would be inconsistent with the new frame of government. In any event the Independence Act cannot operate retroactively to deprive the petitioner of rights vested before its adoption.

*Second.* The petitioner must prevail upon the merits. The court below limited the scope of the drawback provision by inserting, in effect, after the word "vessels", as it appears in Section 21, the words "of Philippine or American registry." The statute is plain upon its face. The phrase used is "vessels engaged in trade with foreign countries." The court restricted the scope of the expression upon the view that the drawback was authorized in the interest of the merchant marine of the Islands and that of the United States. We are not referred to any facts to support this conclusion. An equally plausible inference is that the purpose of the provision was to afford Philippine merchants trade opportunities equal to those of foreign merchants in supplying fuel oil to ships. We are not at liberty to limit the application of so clear and unambiguous a statutory direction in the absence of convincing evidence that the intent of Congress was less sweeping than its words import. We hold that the section applies to fuel sold to all vessels, of whatever registry, trading with foreign countries.[9]

The judgment is reversed and the cause remanded for further proceedings not inconsistent with this opinion.

*So ordered.*

[9] An act of Congress providing, in identical terms, for a drawback of tariff duties, was held by the Court of Claims to apply in respect of all vessels whether of domestic or foreign registry. *Kennedy* v. *United States*, 23 C. Cls. 363.